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I. CALL TO ORDER

CHAIRMAN PENNINGTON: WELL, GOOD MORNING, AND WELCOME TO THE JANUARY 27TH, 1999, MEETING OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD.

II. ROLL CALL AND DECLARATION OF QUORUM

CHAIRMAN PENNINGTON: WOULD THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: HERE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: HERE.

THE SECRETARY: JONES?

MEMBER JONES: HERE.

THE SECRETARY: ROBERTI?

CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: HERE. WE HAVE A QUORUM.

DO ANY BOARD MEMBERS HAVE ANY *EX PARTE* COMMUNICATIONS TO REPORT? WE'LL START WITH MR. EATON.

MEMBER EATON: NO, I DON'T BELIEVE SO, WITH THE EXCEPTION OF PAUL WILLMAN, I'M NOT SURE IF HE'S STILL ONE OF OUR EMPLOYEES, HE'S LEAVING. I DID GET A CHANCE TO SAY HELLO TO HIM THIS MORNING, SO JUST TO BE ON THE SAFE SIDE I'LL SAY I TALKED TO PAUL WILLMAN THIS MORNING TO WISH HIM GOOD LUCK. AND IF HE IS AN EMPLOYEE THEN WE CAN DISREGARD IT, IF HE ISN'T I CAN PUT IT DOWN AS *EX PARTE*

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CHAIRMAN PENNINGTON: MR. JONES?

MEMBER JONES: MINE ARE UP TO DATE. SAID HELLO TO LARRY SWEETSER AND MR. WILLMAN, AND THAT WAS IT, SO.

CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

MEMBER FRAZEE: MY ONLY ONE INCLUDES PAUL WILLMAN.

MEMBER EATON: QUICKLY HE'S GOING TO FIND OUT THE OTHER SIDE.

CHAIRMAN PENNINGTON: I HAVE LETTERS FROM STEVE ANDERSEN, A CITY COUNCILMAN WITH THE CITY OF HAWTHORNE, AND JERRY JAMGOTCHIAN, SO -- ON ITEM NO. 9, LETTERS FROM PAMELA BENNETT, CHAIR OF THE CCDEH, AND DONALD HOM WITH GLENN COUNTY.

### III. OPENING REMARKS

CHAIRMAN PENNINGTON: IF THERE'S ANYBODY WHO WISHES TO ADDRESS ANY ITEM ON THE AGENDA THIS MORNING THE SPEAKER REQUEST FORMS ARE AT THE BACK OF THE TABLE, AND IF YOU'D FILL ONE OUT AND GET IT TO MS. KELLY WE WILL TRY TO MAKE SURE THAT YOU ARE HEARD.

BEFORE WE GO TO BOARD ANNOUNCEMENTS I HAVE A LITTLE STATEMENT THAT I'D LIKE TO MAKE THIS MORNING PERTAINING TO TODAY'S AGENDA. THERE ARE SEVERAL ITEMS ON THE AGENDA WHICH HAD BEEN PULLED, AND WHICH I HAVE AGAIN PLACED ON THE AGENDA. I UNDERSTAND THAT SEVERAL OF MY COLLEAGUES ARE CONCERNED ABOUT MY ACTION, SO I'D LIKE TO TAKE THIS OPPORTUNITY TO EXPLAIN MY ACTION.

UNDER OUR RULES THE CHAIRMAN OF THE BOARD CONTROLS

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THE AGENDA. ANY MEMBER OF THE BOARD MAY REQUEST THAT THE CHAIRMAN PULL AN ITEM, OR THE CHAIRMAN MAY PULL AN ITEM HIMSELF, OR THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE CHAIRMAN, MAY RECOMMEND THAT AN ITEM BE PULLED, THE REASONS USUALLY BEING THAT THE ITEM IS NOT READY FOR BOARD CONSIDERATION.

IT HAS BEEN MY PRACTICE IN ALL CASES TO ADVISE OTHER BOARD MEMBERS THAT AN ITEM IS BEING PULLED, AND THE REASONS THAT THE ITEMS HAVE BEEN PULLED. I BELIEVE THAT THIS IS A GOOD PRACTICE.

I APPRECIATE MR. CHANDLER'S CONCERN FOR ALL BOARD MEMBERS' SCHEDULES, AND OVER THE PAST THREE AND A HALF YEARS OF MY CHAIRMANSHIP I HAVE ALWAYS BEEN CONSIDERATE OF THE BOARD MEMBERS' SCHEDULES.

HOWEVER, I HAVE RETURNED THREE ITEMS TO THE AGENDA: ITEM NO. 8, WASTE TIRE FACILITY PERMIT FOR LARKIN TIRE; ITEM NO. 10, A SCOPE OF WORK FOR THE CLEANUP OF THE OXFORD TIRE PILE; AND, ITEM 20, THE INTERAGENCY AGREEMENT ON USED OIL. I FELT THAT IT WAS IMPORTANT THAT THEY BE CONSIDERED BY THE BOARD AT THIS MEETING TODAY.

LARKIN TIRE IS A \*(INDAUD) PERMIT AND IT IS A COMPANY THAT HAS CONTINUALLY WORKED WITH THE BOARD ON THE TIRE ISSUES.

AND NO. 20, THE BOARD APPROVED THE CONTRACT CONCEPT SIX MONTHS AGO AND WE SHOULD GO FORWARD, OR REALLOCATE THE MONEY.

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ITEM NO. 10, THE OXFORD TIRE PILE CLEANUP HAS A NUMBER OF ISSUES THAT SHOULD BE DECIDED IN THE NEAR FUTURE, OR WE WILL LOSE THE OPTION OF OBTAINING FUNDING FOR THE FISCAL YEAR. THERE ARE ALSO HEALTH AND SAFETY AND ENVIRONMENTAL ISSUES RELATED TO THAT TIRE SITE WHICH MUST BE ADDRESSED.

SINCE, HOWEVER, THERE IS CONCERN AMONG MY FELLOW BOARD MEMBERS ABOUT TAKING THESE ITEMS UP TODAY, I WILL REMOVE THEM FROM TODAY'S AGENDA.

I DO WANT TO MAKE IT CLEAR THAT I AM VERY CONCERNED ABOUT THE SITUATION ON OXFORD, AND ENCOURAGE THE BOARD TO CONTINUE ITS EFFORTS TO REMEDIATE THIS SITE AS EXPEDITIOUSLY AS POSSIBLE.

OKAY. ANNOUNCEMENTS THAT WE HAVE, WE DO NOT HAVE ANY AGENDA ITEMS TO BE HEARD UNDER THE CONTINUED BUSINESS AGENDA ITEM, OR THE CONSENT CALENDAR.

ITEMS 1, 3, 11, AND THOSE THAT I JUST TALKED ABOUT, 8, 10 AND 20, HAVE BEEN PULLED FROM TODAY'S AGENDA.

WE'LL START WITH ANY REPORTS -- BEFORE WE DO THAT, LET THE RECORD SHOW THAT SENATOR ROBERTI IS HERE, AND I'LL ASK IF HE HAS ANY *EX PARTES*.

MEMBER ROBERTI: YES, MR. CHAIRMAN. JERRY JAMGOTCHIAN, CITY OF HAWTHORNE, REGARDING THE CITY OF HAWTHORNE SRRE. S. KENT STODDARD \*(PHON) REGARDING FINANCIAL ASSURANCES FROM WASTE MANAGEMENT. AND STEVEN ANDERSEN, CITY OF HAWTHORNE, REGARDING THE CITY OF HAWTHORNE.

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CHAIRMAN PENNINGTON: OKAY, THANK YOU.

AGENDA ITEM IV: REPORTS AND PRESENTATIONS

ORAL REPORTS FROM BOARD MEMBERS

CHAIRMAN PENNINGTON: NOW, REPORTS FROM BOARD MEMBERS. ANY BOARD MEMBERS? MR. EATON.

MEMBER EATON: I'M DEFERRING TO MR. JONES TODAY ON THE 21ST CENTURY.

CHAIRMAN PENNINGTON: MR. JONES.

MEMBER JONES: MR. CHAIRMAN, I HAVE TWO. UNLESS YOU WANT ME TO DO THE 21ST CENTURY, I CAN DO IT IN THE THIRD ONE.

BUT, I SPOKE YESTERDAY AT THE BOARD OF EQUALIZATION BUILDING TO THE DEPARTMENT OF GENERAL SERVICES AND ALL THE STATE AGENCIES ON THE STATE AGENCY BUY RECYCLED PROGRAM -- TOUGH CROWD. BUT, WE DID OUR BEST TO TRY TO MOTIVATE THEM TO UNDERSTAND OUR ISSUES FROM THE STANDPOINT OF THEIR OPPORTUNITY TO TAKE A LEADERSHIP ROLE IN PROCURING AS MUCH AS THEY CAN THAT IS BUILT WITH RECOVERED RECYCLABLES SO THAT WE CAN CONTINUE TO MOVE MARKETS. AND IT WAS A SUCCESSFUL DAY.

SENATOR CHESBRO WAS THE OPENING SPEAKER. AND OUR STAFF WAS INSTRUMENTAL -- WE ARE A CONSULTANT TO THAT GROUP. AND JERRY HART \*(PHON) AND THOSE FOLKS DID A GREAT JOB, AND I WANT TO PUBLICLY THANK THEM FOR THEIR EFFORTS, AND GO FROM THERE.

DO YOU WANT ME TO WAIT ON THE 21ST TILL --

CHAIRMAN PENNINGTON: OH, NO GO AHEAD.

MEMBER JONES: ON THE 21ST CENTURY PROJECT THAT

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MR. EATON HAS DEFERRED TO ME -- BECAUSE, NORMALLY I DEFER IT TO HIM -- FOR THOSE OF YOU THAT WERE THERE, WE THINK THAT THE ISSUE SUMMIT WAS AN ABSOLUTE SUCCESS. IT IS VERY EASY TO TALK ABOUT ISSUES AND TRENDS.

AS YOU SEE AROUND THE WALL, THAT IS THE GRAPHIC ARTIST'S PORTRAYAL OF THE DAY AS THE ISSUES WERE DISCUSSED. AT THE BREAKS OR AT LUNCH TAKE AN OPPORTUNITY AND WALK AROUND AND TAKE A LOOK AT THAT. I THINK THAT CAPTURING THESE IDEAS REALLY IS AN ART THAT IS EVIDENT WHEN YOU LOOK AT THESE THINGS.

THE SECOND PART OF WHAT IS GOING TO BE A THREE- OR FOUR-PART SERIES IN THE BOARD'S EFFORTS TO LOOK INTO THAT FIRST DECADE OF THE 21ST CENTURY IS THE FUTURE SEARCH, WHICH IS GOING TO BE HELD MARCH 9TH AT THE SACRAMENTO CONVENTION CENTER.

AND WHAT WE ARE GOING TO DO, AND THIS IS VERY BRIEFLY, BOARD TEAMS NOW ARE GOING TO START GOING THROUGH THE ISSUES AND THE TRENDS, AND REVIEW THEM, AND PULL THOSE TOP 10 ISSUES AND TRENDS OUT, AND TRY AND DEVELOP THEM. AND AT THAT CONFERENCE, AT THAT FUTURES SEARCH CONFERENCE, WE ARE GOING TO WORK ON AN EXERCISE WHERE WE CAN START TO BUILD SCENARIOS, BEST CASE AND WORST CASE SCENARIOS, ON EACH OF THOSE IDENTIFIED ISSUES. IT IS A UNIQUE WAY OF TRYING TO LOOK AT THE GOOD SIDE AND THE BAD SIDE OF WHAT MAY BE COMING DOWN. AND THEN THIS BOARD WILL TAKE THAT INFORMATION AT THE END OF THE DAY, OR AT THE END OF THE DAYS, AND START WORKING ON WHAT THE PROBABLY SCENARIOS

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WOULD BE. SO THIS PROCESS HAS THREE TO FOUR STEPS TO IT BEFORE WE ACTUALLY COME OUT WITH A DELIVERABLE THAT WE'LL BE ABLE TO USE.

BUT I THINK THE PARTICIPATION OF THE STAKEHOLDERS IS PARAMOUNT IN US ACHIEVING OUR GOAL, WHICH IS TO HELP FORM POLICY AND HELP BE A RESOURCE TO BOTH THE LEGISLATURE AND THE ADMINISTRATION ON WHAT TYPES OF ISSUES TO LOOK FORWARD TO.

IN THE CITY OF INDUSTRY, OUR LAST BOARD MEETING THAT WE HELD, WE PUBLICLY THANKED OUR CONSULTANTS, AS WELL AS OUR STAFF, AND I THINK IT'S PROBABLY APPROPRIATE AGAIN. I'LL MISS SOMEBODY, AS I DID LAST TIME, MR. EATON HAD TO GET SOME NAMES. BUT DONNA HOGAN AND MAUREEN GOODALL, AND TRACY HARPER, AND RUBIA PACKARD, AND SUE PETERSEN, AND RALPH CHANDLER, AND KEITH SMITH, AND PATTI BERTRAM, AND JOHN FRITH, AND -- I'M TRYING TO THINK WHO SITS AROUND THE TABLE WITH US -- AND THOSE PEOPLE WORKED VERY, VERY HARD ON THIS, AND DID AN OUTSTANDING JOB. THE PROBLEM IS, IS THAT THEY HAVE RAISED THE EXPECTATION NOW, SO OUR NEXT MEETING IS GOING TO HAVE TO BE THAT MUCH BETTER, AND WE'RE CONFIDENT IT WILL BE.

THANKS.

CHAIRMAN PENNINGTON: VERY GOOD. MR. FRAZEE, DO YOU HAVE --

MEMBER FRAZEE: YES, MR. CHAIRMAN, I HAVE A PRESENTATION TO MAKE, AND I'D LIKE TO DO THAT FROM THE PODIUM. AND IF YOU WOULD CARE TO JOIN ME?

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WELL, MR. CHAIRMAN, I HAVE A RESOLUTION TO PRESENT, AND THIS IS RELATIVE TO COMMENDING DANIEL G. PENNINGTON FOR HIS SERVICE AS CHAIRMAN OF THIS BOARD FOR THE PAST THREE AND A HALF YEARS.

BEFORE DOING THAT THERE'S A COUPLE OF COMMENTS THAT I'D LIKE TO MAKE. WHEN I WAS APPOINTED TO THE WASTE BOARD, JUST FOUR YEARS AGO COMING UP THIS NEXT MONTH, THE CONVENTIONAL WISDOM WAS THAT I WAS GOING TO BE CHAIRMAN, AND I HEARD THAT FROM ALL KINDS OF PLACES. AND THE RATIONALE WAS SINCE THERE WERE TWO VACANCIES AND I WAS GIVEN THE LONGEST ONE OF THOSE VACANCIES, THAT THAT MEANT THAT THE GOVERNOR INTENDED FOR ME TO BE CHAIRMAN.

A SHORT TWO OR THREE MONTHS AFTER THAT I RECEIVED A CALL FROM THE GOVERNOR'S OFFICE, AND THE INDICATION WAS THE GOVERNOR IS APPOINTING DAN PENNINGTON TO THE WASTE BOARD, TO FILL THE OTHER VACANCY, AND HE EXPECTS MR. PENNINGTON TO BE THE CHAIRMAN. AND SO, NATURALLY, I HAD A SENSE OF DISAPPOINTMENT, BUT THAT SENSE OF DISAPPOINTMENT LASTED ABOUT 30 SECONDS. AND IT WAS REPLACED WITH A SENSE OF RELIEF, AND I'VE ENJOYED THAT RELIEF FOR THE PAST THREE AND A HALF YEARS NOW, AS I'VE WATCHED DAN PERFORM ALL OF THE JUGGLING ACT, TRYING TO KEEP ALL THE BALLS IN THE AIR AT THE SAME TIME, AND HAVE OBSERVED THE MARVELOUS JOB THAT HE'S BEEN DOING IN THAT OFFICE.

YOU KNOW, THE WASTE BOARD IS UNIQUE AMONG ALL OF THE VARIOUS BOARDS AND COMMISSIONS OF STATE GOVERNMENT, JUST IN ITS STRUCTURE. BUT I THINK IT'S UNIQUE IN ANOTHER WAY, AND IT

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CAME HOME TO ME AT THE 21ST CENTURY PROJECT DOWN IN THE CITY OF INDUSTRY, SORT OF REINFORCED MY BELIEF, THAT THERE'S NO OTHER REGULATORY AGENCY IN GOVERNMENT THAT GOES TO THE EXTENT THAT THIS AGENCY DOES IN BRINGING IN ALL OF THE PLAYERS, ALL OF THE REGULATED COMMUNITY, ALL OF THE INTEREST GROUPS, AND REACHING A CONSENSUS BEFORE MOVING AHEAD.

AND I THINK THAT TENOR HAS CERTAINLY BEEN SET, MR. CHAIRMAN, BY YOU AT THE TOP. AND I THINK THAT'S A PATTERN THAT PERHAPS EXISTED BEFORE YOU AND I ARRIVED, AND I'VE ASSUMED THAT IT WAS, BUT I THINK THAT YOU'VE CERTAINLY HELPED THAT ALONG. AND IT'S REALLY, AS I SAY, A LANDMARK IN GOVERNMENT. YOU KNOW, WE HEAR SO MUCH ABOUT REINVENTING GOVERNMENT, AND I THINK WE'VE ALREADY DONE THAT HERE AT THE WASTE BOARD IN THIS COOPERATIVE ARRANGEMENT THAT HAS BEEN BROUGHT FORTH.

I THINK ALSO, IN OBSERVING YOUR OPERATION, AND THE CHAIRMAN'S OFFICE, YOUR STAFF, YOUR VERY EXCELLENT STAFF SHOULD SHARE IN THIS RESOLUTION ALSO. UNFORTUNATELY, THEIR NAMES ARE NOT HERE, BUT MARLENE AND SUSAN AND LOU \*(PHON) HAVE REALLY BEEN GREAT, BECAUSE THEY'VE PERFORMED NOT JUST FOR YOU, BUT FOR THE ENTIRE BOARD IN WHAT THEY HAVE BEEN ABLE TO DO.

SO I GUESS, AS I SAID IN THE BEGINNING, MY DISAPPOINTMENT WAS REPLACED WITH RELIEF. IT WAS THE ONLY ELECTION IN MY 26 YEARS IN PUBLIC OFFICE THAT I LOST, BUT IT -- THAT LOSS COULDN'T HAVE BEEN TO A BETTER PERSON, AND YOU'VE CERTAINLY PROVEN THAT OVER THE THREE AND A HALF YEARS THAT WE'VE

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WORKED TOGETHER.

SO I'D LIKE TO PRESENT TO YOU THIS RESOLUTION, I JUST WISH IT WOULD HAVE BEEN FRAMED. AND HAD I KNOWN, BEFORE I HAULED ALL THOSE FRAMES HOME FROM -- 17 BOXES OF RESOLUTIONS THAT I'VE RECEIVED OVER MY 26 YEARS, I WOULD HAVE SNATCHED ONE OF THOSE FRAMES OUT AND GOT THIS FRAMED FOR YOU.

BUT, THIS RESOLUTION, SIGNED BY ALL OF THE REMAINING MEMBERS OF THE BOARD, AS WELL AS RALPH CHANDLER, THE EXECUTIVE DIRECTOR, COMMENDS YOU FOR YOUR SERVICE AND WISHES YOU THE VERY BEST FOR YOUR FUTURE ENDEAVORS. AND I KNOW THAT YOU'RE GOING TO CONTINUE TO BE HERE AT THE BOARD WORKING JUST AS HARD AS YOU HAVE, EVEN THOUGH YOU WILL NO LONGER BE CHAIRMAN.

(APPLAUSE.)

AND, MR. CHAIRMAN, YOUR ADVISOR, LOU HASTINGS, HAS SOME COMMENTS THAT HE WOULD LIKE TO MAKE ALSO.

MR. HASTINGS: THANK YOU, MR. FRAZEE, BOARD MEMBERS.

MR. CHAIRMAN, YOU NOTED THIS THIS MORNING, I'M SURE, SO I WOULD LIKE TO PRESENT TO YOU THE GAVEL YOU HAVE USED FOR THE PAST THREE AND A HALF YEARS AS CHAIRMAN OF THE BOARD. IT SAYS WITH APPRECIATION TO DANIEL G. PENNINGTON, CHAIRMAN, CIWMB, JUNE 1995 - JANUARY 1999.

CHAIRMAN PENNINGTON: THANK YOU. (APPLAUSE.)  
WELL, I'M OVERWHELMED, THANK YOU VERY MUCH.

I HAD A LITTLE STATEMENT THAT I WAS GOING TO MAKE

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AT THE END OF THE MEETING TODAY, SO IF YOU'LL LET ME GIVE THAT STATEMENT TO YOU NOW, I THINK IT'S THE BEST WAY THAT I CAN SAY THANK YOU.

TODAY WILL COMPLETE THE 51ST BOARD MEETING WHICH I HAVE PRESIDED OVER AS CHAIRMAN. I'M NOW GOING TO TURN THE GAVEL OVER TO DANNY EATON, AND I DO THIS WITH BOTH HIGH EXPECTATIONS AND, OF COURSE, SOME SADNESS.

I KNOW THAT THE RELATIONSHIP BETWEEN MR. EATON AND THE NEW ADMINISTRATION, THE BOARD WILL HAVE AN EXCELLENT OPPORTUNITY TO GAIN THE SUPPORT OF THE AGENCY AND THE VARIOUS STATE CONTROL AGENCIES TO MOVE FORWARD IN THE ENDEAVOR TO REACH THE, OR EXCEED THE, 50 PERCENT MANDATE GOAL WHICH, WITH THEIR RELATIONSHIP, WILL ALLOW US TO HAVE FEW ROADBLOCKS WITH THE ADMINISTRATION.

IN ADDITION, WITH MR. EATON'S VAST KNOWLEDGE AND EXPERIENCE AT THE CAPITOL, COUPLED WITH THAT OF SENATOR ROBERTI, THE ROAD THROUGH THE LEGISLATIVE PROCESS WILL BE SMOOTH, AND THAT THE SUPPORT FOR THE LEGISLATIVE ISSUES NECESSARY FOR THE BOARD TO FULFILL ITS MISSION, WILL BE EASILY OBTAINED.

I HAVE HIGH EXPECTATIONS OF THE BOARD STAFF. THIS STAFF IS ONE OF THE MOST DEDICATED GROUP OF INDIVIDUALS IN STATE SERVICE. THE STAFF IS PROFESSIONAL, HARDWORKING, WELL EDUCATED, AND ON TOP OF THE ISSUES, AND ALWAYS GOES THE EXTRA DISTANCE TO HELP INDUSTRY AND LOCAL GOVERNMENT ACHIEVE THE STATUTORY THRUST OF AB 939. SO, I DO HAVE HIGH EXPECTATIONS THAT THE BOARD WILL,

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WITH THE SUPPORT OF THIS MAGNIFICENT STAFF, REACH ITS MISSION WITHIN THE PROPER TIME FRAMES.

FURTHER, I HAVE HIGH EXPECTATIONS FOR THE INDIVIDUAL BOARD MEMBERS. AS WITH PEOPLE WHO HAVE SPENT MOST OF THEIR LIVES IN THE POLITICAL TRENCHES, IT IS HARD NOT TO FALL INTO THE ROUTINE OF PARTISAN POLITICS. BUT EACH OF THE MEMBERS OF THIS BOARD HAS MADE A VERY DEFINITE EFFORT TO AVOID POLITICS, AND TO STICK TO THE MISSION AT HAND. THEREFORE, I HAVE HIGH EXPECTATIONS THAT WE WILL CONTINUE TO SET ASIDE THE PARTISAN ISSUES, AND DEAL WITH THE ISSUES THAT HAVE AN IMPACT ON THE REDUCTION OF WASTE.

I AM HONORED TO HAVE HAD THE OPPORTUNITY TO SERVE AS YOUR CHAIRMAN. IT HAS BEEN INTERESTING, FUN, AND MOST OF ALL, A PRIVILEGE TO CALL EACH OF YOU MY COLLEAGUES.

IN ADDITION, I HAVE HAD THE HONOR AND PRIVILEGE TO SERVE WITH COLLEAGUES WHO HAVE LEFT THE BOARD, SUCH AS SENATOR WES CHESBRO, JANET GOTCH\*, PAUL RELLIS\*, SAM\* AGIGIA\*, AND MOST RECENTLY JOHN AMADEO\* AND STEPHEN RHODES. I VERY MUCH APPRECIATE THE SUPPORT THAT EACH OF YOU HAVE GIVEN ME OVER THE PAST THREE AND A HALF YEARS.

IT IS WITH SOME SADNESS THAT I RELINQUISH THE CHAIR. HOWEVER, I DO LOOK FORWARD TO BEING ABLE TO SPEND MORE TIME AND ENERGY ON THE ISSUES, AS OPPOSED TO HELPING THE SENIOR STAFF NAVIGATE THIS SHIP OF STATE THROUGH THE WATERS OF THE STATE BUREAUCRACY.

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I CANNOT LEAVE THE CHAIRMANSHIP WITHOUT THANKING THE ENTIRE BOARD STAFF FOR ALWAYS BEING READY TO HELP ME, AND FOR GIVING ME GOOD GUIDANCE.

I ALSO WANT TO THANK RALPH CHANDLER FOR HIS MANY HOURS WORKING WITH ME ON MANY OF THE PROGRAMS, POLICIES, AND ADMINISTRATIVE ISSUES FACING THE BOARD.

I ALSO WANT TO THANK MY PERSONAL STAFF, MARLENE KELLY, SUSAN WESTLAKE, AND LOU HASTINGS FOR THEIR DEDICATION AND THEIR LOYALTY TO ME, AND TO MAKING EACH BOARD MEETING FLOW WITH AS FEW BUMPS AS POSSIBLE.

AND, FINALLY, I ALSO -- AS I STEP TO THE BACK BENCH FOR THE LAST YEAR OF MY TERM -- I MUST THANK FORMER GOVERNOR PETE WILSON FOR GIVING ME THE OPPORTUNITY TO SERVE THE PEOPLE OF THIS GREAT STATE OF CALIFORNIA.

I THANK YOU ALL FOR YOUR SUPPORT THROUGH THE YEARS. EACH OF YOU HAVE COME IN TO -- A LOT OF YOU HAVE COME IN TO SEE ME, AND HAVE EDUCATED ME IN THE WORLD OF WASTE. IT'S BEEN A VERY, VERY WONDERFUL EXPERIENCE, AND AN ABSOLUTE PRIVILEGE TO HAVE HAD THIS HONOR. THANK YOU ALL VERY MUCH. (APPLAUSE.)

OKAY. AGAIN, THANK YOU, THAT WAS WONDERFUL.

ORAL REPORT FROM THE EXECUTIVE DIRECTOR AND EXECUTIVE STAFF

CHAIRMAN PENNINGTON: NOW WE'LL GO TO A REPORT FROM THE EXECUTIVE DIRECTOR AND THE EXECUTIVE STAFF. MR. CHANDLER.

MR. CHANDLER: THANK YOU, MR. CHAIRMAN. I DO NOT

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HAVE ANY ITEMS SPECIFIC TO MY DIRECTOR'S REPORT. BUT I DO HAVE A COUPLE OF RESOLUTIONS THAT I WOULD LIKE TO OFFER TO STAFF. SO, IF YOU'LL EXCUSE ME, I'LL MOVE TO THE PODIUM AS WELL.

I DO HAVE, AS I MENTIONED, A COUPLE OF RESOLUTIONS I'D LIKE TO OFFER TO STAFF. BUT, BEFORE I DO THAT, AND PERHAPS TO PUNCTUATE SOME OF THE REMARKS THAT WERE JUST MENTIONED TO YOU, MR. CHAIRMAN, I WOULD LIKE TO ADD A LITTLE MEMENTO AS WELL. PERHAPS SOMETHING THAT, IN ADDITION TO THE WORK THAT YOU ARE VERY WELL KNOWN FOR HERE AT THE BOARD, THERE'S ANOTHER AREA OF YOUR PERFORMANCE HERE AT THE BOARD THAT I THINK NEEDS TO BE RECOGNIZED.

AND IT HAS TO DO WITH AN AFTERNOON LAST AUGUST, AN AFTERNOON THAT, AS HE HAS SOMETIMES THE WONT TO DO, MR. PENNINGTON SLIPPED OUT AND WENT TO THE LIGHTHOUSE GOLF CLUB. AND ON THAT AFTERNOON IN AUGUST, AT THE SEVENTH HOLE SOMETHING MIRACULOUS HAPPENED. AT LEAST THAT'S HOW THE STORY GOES, BECAUSE IT'S BEEN TOLD, AND I'VE EVEN SEEN THE NEWSPAPER ARTICLE, THAT REPRESENTED THAT ON THAT DAY MR. DAN PENNINGTON MADE A HOLE IN ONE ON THAT SEVENTH HOLE.

SO, IT WAS WITH MUCH EXCITEMENT THAT THE EXECUTIVE STAFF GOT TOGETHER, PUT A FEW BUCKS IN THE KITTY AND WE GOT YOU THIS WONDERFUL MEMENTO THAT I KNOW YOU WILL WANT TO HAVE ON THE TOP OF YOUR MANTLE, AND I'LL HAND IT TO YOU NOW. AND YOU UNDERSTANDING THIS LITTLE CUT-OUT HERE IS FOR THAT LITTLE ORANGE BALL THAT YOU USED WHEN YOU PLAYED THAT DAY. SO, DAN, IN ALL

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JEST, BUT IN SINCERITY FROM THE EXECUTIVE STAFF, I'LL HAND THIS LITTLE.... (APPLAUSE.)

CHAIRMAN PENNINGTON: ACTUALLY, THE BALL ISN'T JUST ORANGE, IT'S ORANGE AND RED, AND SEVERAL COLORS MIXED INTO IT THERE.

MR. CHANDLER: WELL, MR. EATON, REST ASSURED, I UNDERSTAND THAT PAUL'S FIRST DAY IS MONDAY, SO YOU DON'T HAVE TO WORRY ABOUT THE *EX PARTE*.

BUT, LET ME RECOGNIZE PAUL WILLMAN, WHO COULD -- IF YOU WOULD, PLEASE COME FORWARD.

AS MANY OF YOU HAVE HEARD, PAUL HAS MADE THE LEAP INTO THE PRIVATE SECTOR, I THINK MUCH -- HE IS TO BE RECOGNIZED FOR WHY HE WAS SELECTED BY WASTE MANAGEMENT TO, AS I UNDERSTAND, TAKE ON A SIGNIFICANT POSITION TO OVERSEE SOME OF THEIR OPERATIONS FOR CALIFORNIA IN THE AREA OF FACILITY COMPLIANCE. I DON'T KNOW IF IT'S SOUTHERN CALIFORNIA SPECIFICALLY, OR THE ENTIRE STATE BUT, NEVERTHELESS, I THINK IT'S A REAL COMPLIMENT TO PAUL'S EXCELLENT EFFORTS.

THE BOARD HAS A RESOLUTION -- AND, PAUL, I DON'T THINK I'M GOING TO GO THROUGH THE WHOLE WHEREAS', I'M JUST GOING TO HAND YOU THE RESOLUTION IN THE INTEREST OF TIME.

BUT I DON'T WANT TO LEAVE WITHOUT SAYING THAT, YOU KNOW, IT'S TOUGH BEING TETHERED OUT IN THE SOUTHERN CALIFORNIA OFFICES. PAUL IS -- YOU KNOW, AT ONE TIME WE HAD THREE SOUTHERN CALIFORNIA OFFICES, REDLANDS, VALENCIA, AND FULLERTON. IT WAS A

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TOUGH DECISION, BUT WHEN THE BOARD'S BUDGET WAS TIGHT SEVERAL YEARS AGO WE MADE THE DECISION TO CONSOLIDATE THE THREE REGIONAL FIELD OFFICES INTO A SINGLE OFFICE IN FULLERTON, AND PAUL CONTINUED ON AS THE LEAD SUPERVISOR FOR OUR SOUTHERN CALIFORNIA OPERATIONS, AND DID A MIRACULOUS JOB. BROUGHT THE STAFF TOGETHER, CONTINUED TO HELP US MOVE INTO THAT TRANSITION OF MORE OF A COMPUTER-BASED ORGANIZATION DOWN THERE, TELE-COMMUTING WHILE MAINTAINING THE OVERSIGHT WE NEEDED AT THOSE FACILITIES, AND YOU DID IT WITH GREAT PROFESSIONALISM.

SO, PAUL, ON BEHALF OF THE ENTIRE ORGANIZE AND THE BOARD, CONGRATULATIONS ON YOUR NEW ASSIGNMENT. BEST OF LUCK TO YOU. AND STAY IN TOUCH, AND LET US KNOW FROM THE OTHER SIDE HOW WE CAN CONTINUE TO IMPROVE STATE GOVERNMENT. THANK YOU.

(APPLAUSE.)

MR. WILLMAN: I JUST WANT TO SAY THANKS A LOT. IT'S AN INCREDIBLE HONOR. ALTHOUGH I DON'T HAVE -- THIS IS THE FIRST, I DON'T HAVE 17 LIKE MR. FRAZEE, AND I DIDN'T GET A GAVEL. BUT, I JUST WANT TO SAY THANKS A LOT. AND JUST WHAT A GREAT ORGANIZATION THIS HAS BEEN TO WORK FOR.

I'VE BEEN HERE FOR 10 YEARS NOW, AND JUST THE CHANGES I'VE SEEN FROM 10 YEARS AGO, THE FIRST TIME I EVER WENT OUT IN THE FIELD TO A SITE DOWN SOUTH AND, YOU KNOW, YOU COULD PROBABLY FIND 20 TO 25 VIOLATIONS AT THAT TIME. AND YOU GO OUT THERE NOW AND YOU'RE HARD-PRESSED TO FIND ONE OR TWO VIOLATIONS.

AND I THINK THAT'S A REFLECTION ON JUST THE

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QUALITY OF THE PEOPLE I'VE HAD TO WORK WITH OVER THE YEARS. AND NOT JUST HERE AT THE BOARD, BUT ALSO THE LEAS AND THE OPERATORS, TOO. AND I JUST WANT TO SAY THANKS A LOT, AND IT'S JUST BEEN A PLEASURE WORKING FOR THIS BOARD. THANKS. (APPLAUSE.)

CHAIRMAN PENNINGTON: I MIGHT ADD THAT HE MAY HAVE NOT GOTTEN A GAVEL, BUT HE GOT A FRAME.

MR. CHANDLER: THAT'S WHAT HAPPENS WHEN YOU HELP MR. FRAZEE MOVE, SEE.

OUR SECOND RESOLUTION THIS MORNING IS TO COMMEND THE RETIREMENT OF DR. BOB BLACKSTONE.

BOB, YOU'RE IN THE BACK, WHY DON'T YOU COME FORWARD, PLEASE? AND, BOB, I SIMILARLY WANTED TO SAY A FEW REMARKS WITHOUT, AGAIN, GOING THROUGH ALL THE WHEREAS'.

I JUST WANT TO AGAIN PUBLICLY THANK YOU FOR YOUR WORK AT THE BOARD. I KNOW IT WAS WITH GREAT PROFESSIONALISM THAT, THE DAY I CAME TO YOU AND ASKED IF YOU WOULD MIND HELPING THE AGENCY ON THEIR TECHNOLOGY CERTIFICATION PROGRAM I DIDN'T HAVE TO GO INTO MUCH DETAIL AT ALL BEFORE YOU JUMPED AT THE OPPORTUNITY, AND WENT OVER THERE, AND CERTAINLY HELPED THAT AGENCY -- WHICH WAS GOING THROUGH SOME TOUGH TIMES, AS YOU KNOW -- AND TRYING TO PULL THAT PROGRAM TOGETHER. AND ALL REPORTS I GOT IS YOU DID AN EXCELLENT JOB.

YOU'VE ALWAYS BEEN A SPIRIT OF INNOVATION AND EXCITEMENT IN THE ORGANIZATION, PRESSING MANAGEMENT AND OTHERS, AND THE STAFF AROUND YOU TO LOOK AT THE -- PERHAPS THE

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ALTERNATIVE SIDE OF AN ISSUE, AND HOW WE CAN MAKE GOVERNMENT BETTER, AND BRINGING A LOT OF EXPERIENCE ALONG THE WAY THAT CERTAINLY HELPED OUR PROGRAMS GROW.

SO, AGAIN, IT'S WITH MUCH PRIDE AND APPRECIATION THAT I PRESENT YOU WITH THIS RESOLUTION FROM THE ENTIRE BOARD COMMENDING YOUR RETIREMENT FROM STATE SERVICE. THANKS.

(APPLAUSE.)

DR. BLACKSTONE: THANK YOU VERY MUCH, RALPH.

IT HAS BEEN -- I'LL ECHO THE WORDS PAUL JUST SAID, IT'S BEEN A REAL HONOR TO WORK WITH THIS ORGANIZATION, AND THE QUALITY STAFF PEOPLE. I'VE BEEN HERE PERHAPS EVEN A LITTLE MORE THAN A DECADE, AND HELPED TO DREAM SOME OF THE NEW CHANGES IN, WORKING TO ESTABLISH AB 939 WHEN IT WAS BORN, WITH MANY CHANGES.

AND I DON'T THINK, IN ALL THE YEARS THAT I'VE WORKED IN A VARIETY OF ORGANIZATIONS, INCLUDING ACADEMIA AND CHURCHES -- I HAVE NEVER, IN ALL MY LIFE, WORKED WITH A MORE DEDICATED GROUP OF PEOPLE, MORE PROFESSIONAL, MORE HARDWORKING, AND IT HAS REALLY BEEN AN HONOR.

I ALSO REJOICE -- AS OTHERS HAVE MENTIONED, BOARD MEMBERS AND OTHERS HAVE REFERRED TO THE PROGRESS WE'VE MADE -- I HAVE WATCHED THAT HAPPEN IN THE LAST DECADES, AND I REJOICE IN THE PROGRESS IN WHAT REALLY IS THE OLDEST ASSIGNMENT GIVEN TO THE HUMAN SPECIES. IT'S IN GENESIS, CHAPTER 2, "TAKE CARE OF THE GARDEN." THANK YOU. (APPLAUSE.)

ORAL REPORT ON THE STATUS OF THE 21ST CENTURY POLICY

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DEVELOPMENT PROCESS

(DONE BY MR. JONES DURING ORAL REPORTS FROM BOARD MEMBERS.)

AGENDA ITEM V: CONTINUED BUSINESS AGENDA ITEMS, AND

AGENDA ITEM VI: CONSENT AGENDA

(NONE PER PENNINGTON'S OPENING REMARKS.)

AGENDA ITEM VII: NEW BUSINESS AGENDA ITEM

ITEM NO. 2: CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE PACHECO PASS SANITARY LANDFILL, SANTA CLARA COUNTY

CHAIRMAN PENNINGTON: OKAY. WE'VE DONE THE 21ST CENTURY, AND SO I GUESS WE'LL MOVE TO ITEM NO. 2, CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE PACHECO PASS SANITARY LANDFILL IN SANTA CLARA COUNTY. JULIE NAUMAN.

MS. NAUMAN: GOOD MORNING, MR. CHAIRMAN AND MEMBERS, JULIE NAUMAN, DEPUTY DIRECTOR OF THE PERMITTING AND ENFORCEMENT DIVISION. BEFORE WE HAVE STAFF PRESENT THIS ITEM I JUST WANTED TO HIGHLIGHT FOR YOU TWO POLICY ISSUES THAT ARE RELEVANT TO YOUR CONSIDERATION OF THIS ITEM. ONE OF THESE IS AN ISSUE THAT HAS NOT COME BEFORE THE BOARD PREVIOUSLY, WHILE THE OTHER ISSUE INVOLVES A POLICY THAT THE BOARD ADOPTED BACK IN 1994, AND I WANTED TO TAKE THIS OPPORTUNITY JUST TO REFRESH YOUR MEMORIES WITH RESPECT TO THAT POLICY.

WHEN THE BOARD CONSIDERS A PERMIT WE'RE GUIDED BY TITLE 27, WHICH LISTS THE REQUIRED PARTS OF A PROPOSED PERMIT PACKAGE. THE REQUIRED ELEMENTS INCLUDE, AND WE OFTEN TALK ABOUT

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ALL OF THESE IN OUR STAFF REPORT TO YOU, ISSUES SUCH AS COMPLIANCE WITH CEQA, CONSISTENCY WITH STATE MINIMUM STANDARDS, CLOSURE PLAN AND FINANCIAL ASSURANCES, REPORT OF FACILITY INFORMATION, AND THE CONFORMANCE FINDING, WHICH REQUIRES THE STATEMENT THAT THE FACILITY IS IN FACT IN COMPLIANCE WITH PUBLIC RESOURCES CODE 50000 OR 50001.

THESE SECTIONS REQUIRE THAT FOR ANY NEW OR EXPANDING SOLID WASTE FACILITY THE LOCATION OF THE FACILITY MUST BE IDENTIFIED IN THE APPROVED COUNTYWIDE SITING ELEMENT. THE SITING ELEMENT IS A PART OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN, WHICH WE COMMONLY REFER TO AS THE CIWMP. THE ISSUE OF CONFORMANCE WITH THE SITING ELEMENT HAS BEEN IDENTIFIED BY STAFF AS AN ISSUE NEEDING FURTHER BOARD DISCUSSION AND DIRECTION.

DURING OUR PRESENTATION OF ITEM NO. 2, ELLIOT BLOCK, OF THE LEGAL OFFICE, WILL ADDRESS THE POLICY QUESTION WITH YOU.

THE SECOND ISSUE I'D LIKE TO BRING TO YOUR ATTENTION IS THE REQUIREMENT THAT WE DETERMINE THAT A FACILITY MEET STATE MINIMUM STANDARDS, SUCH AS DUST, GAS, DAILY COVER, JUST TO MENTION A FEW.

BACK IN 1994, THE BOARD CONSIDERED AND ADOPTED A POLICY FOR THE REVIEW OF SOLID WASTE FACILITY PERMITS WHERE VIOLATIONS OF STATE MINIMUM STANDARDS EXIST. THE POLICY ADDRESSES LONG-TERM VIOLATIONS, MEANING THOSE VIOLATIONS SUCH AS

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GAS CONTROL, THAT TYPICALLY WOULD TAKE MORE THAN 90 DAYS TO CORRECT.

UNDER THAT POLICY THE BOARD MUST MAKE THE FOLLOWING FINDINGS: (1) THAT THERE IS NO IMMEDIATE THREAT TO PUBLIC HEALTH, SAFETY, OR THE ENVIRONMENT; (2) THE OPERATOR HAS SUBMITTED AN INTERIM GAS CONTROL PLAN THAT DETAILS THE PROBLEM AND HOW THE PROBLEM OR VIOLATION WILL BE CORRECTED; (3) THE LEA HAS PREPARED AN ENFORCEMENT ORDER IDENTIFYING THE ELEMENTS TO BE COMPLETED IN ORDER TO ACHIEVE COMPLIANCE BY A SPECIFIED DATE; AND, FINALLY, THE OWNER OR OPERATOR IS IN FACT MAKING A GOOD-FAITH EFFORT TO COMPLY WITH THE ENFORCEMENT ORDER AND/OR FOLLOWING THE ACCEPTED INTERIM GAS CONTROL PLAN TO CORRECT THE VIOLATION.

OVER THE PAST FOUR YEARS THE BOARD HAS APPROVED APPROXIMATELY A DOZEN SOLID WASTE FACILITY PERMITS UNDER THIS LONG-TERM VIOLATIONS POLICY.

ITEM NO. 2, THE PACHECO PASS SITE, HAS BEEN ON OUR INVENTORY OF FACILITIES WHICH VIOLATES STATE MINIMUM STANDARDS SINCE 1977. THE SITE MEETS ALL THE CRITERIA OF THE BOARD'S LONG-TERM GAS VIOLATION PERMIT POLICY. BUT, SINCE THERE'S A LENGTHY DISCUSSION OF THE SITE'S HISTORY RELATIVE TO GAS VIOLATIONS I WANTED TO PROVIDE YOU THIS BACKGROUND ON THE POLICY SO THAT YOU CAN UNDERSTAND HOW OUR STAFF HAS APPLIED THE POLICY TO THIS PERMIT, AND TO ITS RECOMMENDATION.

SO, WITH THAT BACKGROUND, I'D NOW LIKE TO TURN THE

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PRESENTATION OVER TO JOHN WHITEHILL.

MR. WHITEHILL: GOOD MORNING. THIS ITEM, AS MENTIONED, IS CONSIDERATION OF THE REVISED PERMIT FOR THE PACHECO PASS SANITARY LANDFILL, WHICH IS LOCATED IN THE UNINCORPORATED SOUTHERN PORTION OF SANTA CLARA COUNTY, ABOUT FOUR MILES EAST OF THE CITY OF GILROY.

THE 1985 PERMIT IS BEING REVISED TO REFLECT CHANGES ASSOCIATED WITH THE PREVIOUSLY UNKNOWN FAULTS THAT WERE DISCOVERED DURING EXCAVATION OF AN EXPANSION AREA THAT WAS APPROVED IN 1985. AS A RESULT, FUTURE CELLS WILL NOW ONLY BE ALLOWED TO BE FILLED WITH INERT WASTE, AND THE CELL THAT THEY'RE CURRENTLY IN IS THE LAST CELL THAT WILL BE ALLOWED TO ACCEPT MUNICIPAL SOLID WASTE, AND THAT WILL BE FILLED IN APPROXIMATELY THE YEAR 2004.

THE OTHER CHANGES ARE THAT THEY WILL NOW ACCEPT FRIABLE ASBESTOS, IN ADDITION TO ALL THE OTHER INERT WASTE THAT THEY'LL BE ACCEPTING IN THOSE CELLS. AND THE NEW PERMIT WILL REFLECT THAT FACT THAT THEY'LL BE RECEIVING OCCASIONAL PEAK TONNAGES OF UP TO A THOUSAND TONS PER DAY.

ALSO, THERE HAVE BEEN ADDITIONAL ENVIRONMENTAL CONTROLS AND SITE IMPROVEMENTS AT THE SITE.

AS THIS ITEM WENT TO PRINT THERE WERE STILL TWO OUTSTANDING ISSUES, FINANCIAL ASSURANCE AND CONFORMANCE WITH CIWMP, AS MENTIONED EARLIER. WE HAVE SINCE VERIFIED THAT THE OPERATOR IS IN COMPLIANCE WITH THE FINANCIAL ASSURANCE

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REQUIREMENTS, AND OUR LEGAL STAFF WILL DISCUSS THE CIWMP CONFORMANCE ISSUES IN A MOMENT.

I WOULD ALSO LIKE TO POINT OUT, AGAIN, THAT THIS FACILITY IS CURRENTLY IN VIOLATION OF THE BOARD'S LANDFILL GAS STANDARDS. HOWEVER, WE HAVE BEEN ABLE TO MAKE THE FINDINGS OF THE LONG-TERM GAS VIOLATION POLICY.

AS MENTIONED EARLIER, WE HAVE MADE THE FINDING THAT THERE IS NO IMMEDIATE THREAT TO PUBLIC HEALTH/SAFETY, OR THE ENVIRONMENT. IT'S A REMOTE LANDFILL, THERE IS NO STRUCTURES WITHIN A THOUSAND FEET. THE NEAREST RESIDENCE IS ABOUT 3,000 FEET AWAY. THE SURROUNDING PROPERTY IS ZONED AGRICULTURAL, AND THE NEAREST PROPERTY THAT'S AFFECTED IS A PART OWNER OF THE LANDFILL.

THE OTHER FINDING WE MADE IS THAT THE OPERATOR HAS SUBMITTED AN INTERIM GAS CONTROL PLAN, AND IT SHOWS THAT THEY'LL BE ABLE TO USE THE SAME PLAN THAT BROUGHT TWO OTHER WELLS INTO COMPLIANCE, AND THAT THEY EXPECT TO BE IN COMPLIANCE BY THIS SPRING.

ALSO, THE LEA HAS PREPARED AN ENFORCEMENT ORDER, AND THE LATEST EDITION OF THE GAS CONTROL PLAN HAS BEEN INCORPORATED INTO THAT ENFORCEMENT ORDER.

AND, JUST AS A CORRECTION, THE SITE'S BEEN ON THE INVENTORY SINCE 1997. I THINK YOU SAID '77.

AND THE OPERATOR, WE BELIEVE, IS MAKING A GOOD-FAITH EFFORT TO COMPLY WITH THE ENFORCEMENT ORDER. AS I

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MENTIONED, THEY'VE ALREADY BROUGHT A FEW OF THE WELLS INTO COMPLIANCE. THEY HAVE A PLAN TO BRING IT INTO COMPLIANCE, AND WE BELIEVE THEY'RE TAKING THE NECESSARY STEPS TO REACH THEIR GOALS THAT ARE IN THE PLAN, AND IN THE NOTICE AND ORDER.

SO, IN THIS PARTICULAR INSTANCE, STAFF FEEL THAT THE BENEFITS OF UPDATING THIS PERMIT AT THIS TIME OUTWEIGH THE POTENTIAL IMPACTS OF THE GAS AS IT EXISTS RIGHT NOW.

IN SUMMARY, THE LEA AND BOARD STAFF HAVE MADE THE FOLLOWING FINDINGS. THAT THE LEAD AGENCY AND OPERATOR HAVE COMPLIED WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. WE ALSO MADE THE FINDING THAT THE DESIGN AND OPERATION ARE IN COMPLIANCE WITH STATE MINIMUM STANDARDS, WITH THE ACCEPTANCE OF THE LANDFILL GAS VIOLATION MENTIONED. THE PROPOSED PERMIT IS CONSISTENT WITH THE STANDARDS ADOPTED BY THE BOARD, INCLUDING THE BOARD'S LONG-TERM GAS VIOLATION POLICY.

HOWEVER, BOARD STAFF HAVE NOT YET MADE THE FINDING THAT THIS FACILITY IS CONSISTENT WITH THE APPROVED COUNTY INTEGRATED WASTE MANAGEMENT PLAN. AND, FOR THIS REASON, BOARD DO NOT HAVE A RECOMMENDATION AT THIS TIME. AND ELLIOT BLOCK, FROM OUR LEGAL OFFICE, WILL TALK ABOUT THIS ISSUE.

MR. BLOCK: BEING PASSED OUT TO YOU RIGHT NOW IS A COPY OF THE TWO RELEVANT PAGES FROM THE SITING ELEMENT THAT RELATE TO PACHECO PASS, AS I GET THE OVERHEADS HERE LINED UP.

THE FIRST THING, BEFORE I START DISCUSSING THIS ISSUE, IS I WANTED TO REEMPHASIZE SOMETHING THAT JOHN JUST SAID.

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WHICH IS THAT THE STAFF IS NOT MAKING A RECOMMENDATION, IN ONE WAY OR ANOTHER, REGARDING THE CONFORMANCE FINDING FOR THIS FACILITY. WHAT WE ARE DOING IS BRINGING FORWARD AN ISSUE THAT THE BOARD HAS NOT HAD AN OPPORTUNITY TO ADDRESS. THIS IS, IN FACT, THE FIRST TIME THAT IT'S COME UP WHERE WE HAVE A COUNTY THAT'S POST-GAP, SUBJECT TO A -- A INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN APPROVED, WHERE A PROPOSED EXPANSION OF A FACILITY IS COMING FORWARD THAT HAS A DIFFERENT DESCRIPTION THAN THE DESCRIPTION THAT'S IN THE SITING ELEMENT.

SO, JUST BRIEFLY TO GO OVER THOSE, AS YOU'LL SEE ON THE MONITOR IN FRONT OF YOU AND AROUND THE ROOM, THE PROPOSED SOLID WASTE FACILITY BEFORE YOU HAS -- SHOWS UP TO 1,000 TONS A DAY, OR WHAT WE TYPICALLY REFER TO AS A PEAK. THE PROJECTION IN THE REPORT OF DISPOSAL SITE INFORMATION, THE RDSI, SHOWS THAT THEY EXPECT TO BE TAKING 425 TONS PER DAY ON AVERAGE.

THE APPROVED SITING ELEMENT DESCRIPTION -- AND THAT'S THE COPY OF WHICH YOU HAVE -- I'VE JUST HANDED OUT -- DESCRIBES THIS SITE AS HAVING A MAXIMUM PERMITTED TONNAGE OF 288 TONS PER DAY, WITH AN AVERAGE DAILY TONNAGE OF 215 TONS PER DAY.

AND, ALSO DOES SPECIFY THAT NO EXPANSION PLANS ARE BEING CONSIDERED. SO, IN JUST LOOKING AT THE AVERAGE DAILY TONNAGE, THE INCREASE IN THE AVERAGE DAILY TONNAGE FROM WHAT'S DESCRIBED IN THE SITING ELEMENT IS 210 TONS PER DAY.

THE REASON THAT WE HAVE AN ISSUE TO BRING BEFORE THE BOARD TODAY IS A RESULT OF SOME AMBIGUITIES IN THE STATUTE

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THAT APPLIES AFTER THE INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN APPROVED.

PUBLIC RESOURCES CODE SECTION 50001 PROVIDES THAT NO PERSON SHALL ESTABLISH OR EXPAND A SOLID WASTE FACILITY UNLESS. AND IN THE CASE OF A DISPOSAL FACILITY THIS STATUTE PROVIDES THAT THE LOCATION OF WHICH IS IDENTIFIED IN THE COUNTYWIDE SITING ELEMENT.

TWO ISSUES ARE RAISED BY THIS LANGUAGE. THE FIRST ONE IS WHETHER OR NOT THE PROPOSED PERMIT MUST BE CONSISTENT WITH THE LOCATION IDENTIFIED IN THE SITING ELEMENT, WHAT I'VE SOMETIMES DESCRIBED AS THE DOT ON THE MAP, AND THAT'S WHY I GAVE YOU TWO PAGES FROM THE SITING ELEMENT, ONE PAGE IS THE MAP AND ONE PAGE IS THE DESCRIPTION. OR, DOES IT HAVE TO BE CONSISTENT WITH THE DESCRIPTION THAT'S CONTAINED IN THE SITING ELEMENT.

DURING THE GAP PERIOD, BASED ON SOME SITE DIFFERENCES IN THE LANGUAGE AND THE STATUTE, WE HAVE ALWAYS LOOKED AT THE DESCRIPTION AND MADE THE DETERMINATION THAT THERE'S CONSISTENCY THERE IN THE DESCRIPTION. THE LANGUAGE IS SOMEWHAT DIFFERENT IN 50001 AND WOULD ALLOW FOR AN INTERPRETATION THAT THE DOT ON THE MAP IS, IN FACT, SUFFICIENT IN THE POST-GAP PERIOD.

IT'S A SIGNIFICANT ENOUGH ISSUE, IN TERMS OF THE IMPACT ON HOW PERMITS COME FORWARD, THAT STAFF WANTED TO BRING THIS ISSUE BEFORE THE BOARD FOR SOME DISCUSSION. AND I'M GOING TO TALK A LITTLE BIT ABOUT THAT, SOME OF THE OTHER PROBLEMS WITH THAT AMBIGUITY IN A MOMENT.

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THE SECOND ISSUE THAT'S RAISED IS WHAT IS AN EXPANSION. IS THAT, UNDER THE -- DURING THE GAP PERIOD EXPANSION HAS GENERALLY BEEN VIEWED AS INVOLVING A CHANGE IN DAILY TONNAGE AT A LANDFILL, AND THERE'S SOME LANGUAGE IN THE GAP STATUTE THAT PROVIDES THAT.

THE QUESTION BECOMES, IN THE POST-GAP SITUATION, WHETHER WE SHOULD BE LOOKING AT DAILY TONNAGE OR WHETHER WE SHOULD BE LOOKING AT CHANGE IN THE CAPACITY OF THE LANDFILL. THE PRIMARY PURPOSE OF THE SITING ELEMENT HAVING TO DO WITH THE 15-YEAR CAPACITY REQUIREMENT.

SO, JUST TO BRIEFLY OUTLINE THOSE ISSUES. IN TERMS OF THE ISSUE AS TO WHETHER CONFORMANCE REQUIRES CONSISTENCY IN TERMS OF THE LOCATION, OR THE DESCRIPTION OF THE FACILITY, AS MENTIONED EARLIER, THE TEXT OF PUBLIC RESOURCES CODE SECTION 50001\* DOES REFERENCE THE LOCATION OF WHICH IS IDENTIFIED. AND I THINK THAT YOU'LL HEAR FROM SOME FOLKS IN A FEW MOMENTS TO SAY THAT THAT LANGUAGE SEEMS TO BE PLAIN ENOUGH, A DOT ON THE MAP SHOULD BE SUFFICIENT IN THAT WE WOULD ALLOW FOR A CONFORMANCE FINDING.

THE PROBLEM THAT WE HAVE IDENTIFIED IS THAT THE STATUTORY LANGUAGE ALSO APPLIES TO NOT JUST NEW FACILITIES, BUT EXPANSIONS OF EXISTING FACILITIES. AND, SO IT RAISES AN ISSUE AS TO IF THIS APPLIES TO AN EXPANSION, BY DEFINITION AN EXPANSION OF A FACILITY WILL ALWAYS HAVE -- THAT DOT WILL ALWAYS BE ON THE MAP, AND SO WHY WOULD IT BE NECESSARY TO SEND IT THROUGH THE

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CONFORMANCE-FINDING PROCESS.

AND THEN ALSO, IN TERMS OF LOOKING AT JUST THE CONTEXT OF THE SITING ELEMENT, ONE OF THE PURPOSES OF THE SITING ELEMENT IS TO ALLOW FOR THE COORDINATION OF WASTE MANAGEMENT PLANNING BY ALL THE CITIES WITHIN A COUNTY. IT WOULD APPEAR THAT SOME DESCRIPTION OF THE OPERATIONS, AND NOT JUST THE LOCATION ON A MAP, WOULD BE NECESSARY FOR THAT PURPOSE.

THE OTHER ISSUE THAT IS RAISED BY THE STATUTE IS WHAT IS EXPANSION. AS I MENTIONED PREVIOUSLY, THE GAP STATUTE SPECIFICALLY IDENTIFIES AN EXPANSION AS SOMETHING THAT INVOLVES A SIGNIFICANT INCREASE IN THE TONNAGE HANDLED AT THE LANDFILL. THE STATUTE THAT WE'RE DEALING WITH NOW JUST SIMPLY USES THE WORD "EXPANSION" AND DOESN'T PROVIDE ANY ADDITIONAL DESCRIPTION.

SO, ONE POSSIBLE WAY OF INTERPRETING THAT IS THAT EXPANSION, REALLY IT RELATES TO JUST SOMETHING THAT WOULD RESULT IN A SIGNIFICANT CHANGE IN THE CAPACITY OF THE FACILITY. THIS IS BASED ON THE IDEA THAT THE PURPOSE OF THE SITING ELEMENT IS TO ENSURE 15 YEARS OF DISPOSAL CAPACITY, AND AS LONG AS THE DISPOSAL -- THAT 15-YEAR CAPACITY WAS NOT AFFECTED, THE CONFORMANCE FINDING SHOULD NOT BE A PROBLEM.

A SECOND WAY TO LOOK AT THAT IS, HOWEVER, TO USE THE SAME INTERPRETATION THAT'S BEEN USED DURING THE GAP PERIOD, WHICH IS TO LOOK AT CHANGE IN DAILY TONNAGE. AND THIS WOULD BE BASED ON THE IDEA THAT THE PURPOSE OF THE SITING ELEMENT IS TO ALLOW FOR COORDINATED PLANNING OF WASTE STRATEGIES THAT --

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RECOGNIZING THAT THE CHANGES IN FLOW OF SOLID WASTE WITHIN THE COUNTY IS THE TYPE OF INFORMATION THAT YOU WOULD WANT THE CITIES TO HAVE.

WE HAVE SPENT SOME TIME RESEARCHING LEGISLATIVE HISTORY, AND TRYING TO SEE IF THERE WAS SOMETHING THAT WE COULD BRING FORWARD TO THIS DISCUSSION, TO SAY THAT ONE INTERPRETATION OR THE OTHER WAS A MORE OBVIOUS RIGHT ANSWER THAN THE OTHER. AND, UNFORTUNATELY, IN TERMS OF DOCUMENTARY EVIDENCE, WE HAVE NOT FOUND SOME THINGS. I THINK YOU ARE GOING TO HEAR FROM SOME PEOPLE IN A FEW MOMENTS THEIR RECOLLECTIONS OF WHAT THE INTENT OF THE STATUTE WAS WHEN IT WAS FIRST ENACTED.

SO, IN TERMS OF OPTIONS THAT THE BOARD HAS TODAY. THE BOARD COULD CERTAINLY FIND THAT THIS PROPOSED PERMIT IS IN CONFORMANCE WITH THE SITING ELEMENT, IF IT DECIDES THAT LOCATION IS SUFFICIENT, IDENTIFICATION OF LOCATION IS SUFFICIENT. OR, EVEN IF A CONSISTENT DESCRIPTION IS NECESSARY, THAT AN EXPANSION IS ONLY SOMETHING THAT AFFECTS THE 15-YEAR CAPACITY. IN THIS PARTICULAR CASE, THERE ARE NO ISSUES RELATED TO THE 15-YEAR CAPACITY FROM THE PROPOSED EXPANSION. THE COUNTY AND THE FACILITY ARE WELL OVER THAT NUMBER.

THE BOARD HAS THE OPTION OF FINDING THAT THERE IS NO CONFORMANCE HERE, BECAUSE CONSISTENCY WITH THE DESCRIPTION IN THE SITING ELEMENT IS REQUIRED, AND EXPANSION DOES INCLUDE THE IDEA OF AN INCREASE IN DAILY TONNAGE. THE CONSEQUENCES OF FINDING THAT THE PERMIT IS NOT IN CONFORMANCE WOULD BE THAT THE

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BOARD WOULD BE REQUIRED TO OBJECT TO THE PERMIT.

ONE ADDITIONAL OPTION, WHICH I HAVE ON THIS LIST -- BUT, OF COURSE, IT DEPENDS ON AT THE OPTION OF THE OPERATORS -- THAT THE OPERATOR WERE WILLING TO WAIVE TIME FOR CONSIDERATION OF THE PERMIT BY THE BOARD, WE COULD PUT THIS MATTER OVER FOR A PERIOD OF TIME AND HAVE A POLICY DISCUSSION, A BROADER DISCUSSION ABOUT THIS ISSUE. BUT, AGAIN, THAT WOULD BE UP TO THE OPERATOR, AND I DON'T BELIEVE THAT -- I'VE LEFT IT ON THE LIST OF OPTIONS, BUT I'M NOT SURE THAT THAT'S SOMETHING THAT THEY'RE WILLING TO PUT INTO PLAY.

AND I DO BELIEVE ACTUALLY THERE IS A FOURTH OPTION THAT THE OPERATOR'S PROBABLY GOING TO OFFER, BUT I THINK I'LL LET THEM DESCRIBE THAT FOURTH OPTION FOR YOU.

ARE THERE ANY QUESTIONS?

CHAIRMAN PENNINGTON: QUESTIONS OF STAFF? SENATOR ROBERTI?

MEMBER ROBERTI: SORT OF A QUESTION OF STAFF AND AN OBSERVATION ON MY PART. I SEE IN THIS ITEM, AND ON AN ITEM THAT'S COMING UP, SIMILAR QUESTIONS. AND THE PEOPLE WHO ARE PETITIONING THE BOARD RIGHT NOW -- I GUESS IN OUR POSITION, IN CASE THERE IS A CHANGE OR A REDIRECTION OF BOARD POLICY, OR A CLARIFICATION OF WHAT OUR DIRECTION IS, MAYBE IT SHOULDN'T REBOUND AGAINST THESE APPLICANTS WHO HAVE NO NOTICE, UNLESS THERE'S SOME PUBLIC HAZARD WHICH IS INVOLVED.

WHICH I DON'T SENSE FROM MY BRIEFINGS AND -- THAT

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THAT'S GOING TO BE THE CASE. SO, HOW I VOTE ON THE TWO ISSUES THAT ARE GOING TO BE COMING BEFORE US MAY NOT INDICATE HOW I REALLY FEEL ABOUT THE ISSUE.

I TEND TO THINK, FOR A NUMBER OF REASONS, THAT THESE PROPOSALS THAT I UNDERSTAND ARE GOING TO BE COMING BEFORE US IN GREATER FREQUENCY, ALL SHOULD BE CONSIDERED EXPANSIONS OF SOLID WASTE FACILITIES. AND I'M NOT TALKING ABOUT TODAY'S MATTERS.

I DON'T UNDERSTAND WHAT DIFFERENCE IT MAKES, AN INCREASE IN TONNAGE, OR A EXPANSION GEOGRAPHICALLY AS A SITE, AS FAR AS DISTURBANCES TO THE AIR AND THE WATER MAY BE CONCERNED, IT STRIKES ME AS ALL THE SAME.

AND, I TEND TO THINK THAT'S THE CLEAR MEANING OF WHAT THE LEGISLATION IS. I, FRANKLY, DON'T SEE A GREAT QUESTION. BUT DEFERRING TO STAFF, AND DEFERRING TO COUNSEL, THAT THERE IS A COMPLICATION HERE, I'M WILLING TO LET THAT CONDITION MY VOTE FOR TODAY.

ANOTHER POINT I THINK THAT'S IMPORTANT AS TO WHY THE COUNTYWIDE SITING ELEMENT SHOULD BE CONSIDERED MORE INCLUSIVE AND, THEREFORE, MORE RESTRICTIVE AS TO WHAT COUNTIES CAN OR CANNOT DO, OR SEEK WAIVERS ON, IS THIS ALL DOES INVOLVE NOTICE. NOTICE TO PEOPLE WHO MAY BE AFFECTED, WHETHER THEY'RE PROPERTY OWNERS THAT'RE NEARBY, WHETHER THEY'RE RESIDENTS -- AND I UNDERSTAND IN THE TWO CASES BEFORE IS THAT IS NOT A MAJOR CONSIDERATION. BUT, THE PRECEDENT THAT WE ESTABLISH FROM THINGS

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THAT ARE NOT MAJOR CONSIDERATIONS CAN AFFECT THOSE SITUATIONS WHERE YOU DO HAVE A MAJOR CONSIDERATION OF NOTICE.

AND I DON'T KNOW OF ANYTHING THAT'S MORE IMPORTANT THAN NOTICE TO AFFECTED PARTIES WHEN YOU HAVE AN EXPANSION OF A SOLID WASTE FACILITY. AND I THINK IT'S ABSOLUTELY CLEAR THAT AN INCREASE IN TONNAGE IS AN EXPANSION OF A SOLID WASTE FACILITY IN ANYBODY'S BOOK, EXCEPT SOMEBODY WHO'S TRYING TO CUT VERY FINE LINES.

SO, TODAY'S VOTE -- BECAUSE I UNDERSTAND THAT THERE COULD BE A CERTAIN AMOUNT OF UNFAIRNESS, IF SUDDENLY THE BOARD REDIRECTS POLICY -- AND ONE VOTE ON A BOARD OF SIX IS IMPORTANT -- WOULDN'T NECESSARILY BE VERY FAIR. AND SINCE I TRUST STAFF'S PROTESTATIONS TO ME -- DURING THE BRIEFINGS AND WHAT I ANTICIPATE I'LL HEAR THIS MORNING -- THAT THERE ISN'T A MAJOR HAZARD INVOLVED, I INTEND TO VOTE FOR THIS PACHECO PASS AND THE BUTTE COUNTY ISSUE.

BUT, TO SERVE NOTICE THAT ON THE FUTURE -- MY THOUGHT ON THE MATTER IS PRETTY CLEAR, IT'S AN EXPANSION. AND, ABSENT SOME ENORMOUS EMERGENCY TO THE CONTRARY, I INTEND THAT TO BE WHAT GUIDES ME IN FUTURE VOTES. AND I GUESS MY LITTLE NARRATION RIGHT NOW IS JUST TO SET NOTICE OF HOW I FEEL.

CHAIRMAN PENNINGTON: VERY GOOD. ANY OTHER QUESTIONS OF STAFF? OKAY, THANK YOU.

DENISE DELMATIER: DID YOU WANT TO TALK?

MR. SWEETSER: WELL, ACTUALLY I CAN CONDENSE THIS

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DOWN INTO ONE, HOPEFULLY. I'M LARRY SWEETSER, DIRECTOR OF REGULATORY AFFAIRS FROM NORCAL WASTE SYSTEM, OWNER/OPERATOR OF THE SITE.

I THINK THIS IS A PRETTY SIMPLE ISSUE. AT LEAST IT HAS BEEN IN PAST PERMITS IN OTHER FACILITIES WE'VE GONE TO. IT IS AN INTERESTING QUESTION THAT HAS COME UP, AND THERE MIGHT BE SOME APPLICATIONS THERE. AND I THINK, IF I UNDERSTOOD ELLIOT RIGHT, THE FOURTH OPTION ALLUDED TO IS THE ONE WE WERE TALKING ABOUT AS A POLICY ISSUE. GIVEN THE AMOUNT THE FREQUENCY THIS ISSUE'S BEEN COMING UP, AND THE INTENSITY, NO DOUBT IT IS A POLICY ISSUE TO BE LOOKED AT, BOTH IN DEFINITIONS AND IN APPLICATION.

BUT, WHAT WE HAVE ON THIS PERMIT IS NOT A CIRCULAR ARGUMENT, IN OUR MINDS, IT'S MORE A SEPARATE ARGUMENT OF THE -- BETWEEN THE PERMIT AND THE PLANNING DOCUMENT.

THE BOTTOM LINE FOR THE COUNTY -- AND THEY'VE STATED IT MANY TIMES, BOTH WITHIN THE SITING ELEMENT AND OTHER AREAS -- IS, WITH OR WITHOUT THIS FACILITY THERE IS ADEQUATE CAPACITY, SO THAT GUARANTEE IS THERE. IN FACT, WE ACTUALLY DO HAVE AN IDENTIFICATION DESCRIPTION IN THE SITING ELEMENT, AND THIS IS THE MOST CURRENT OF OUR SITE.

THE KEY POINT IS -- BEING POST-GAP -- THAT OUR FACILITY DOES MEET THE REQUIREMENTS OF 50001 BY BEING -- THE LOCATION IS IDENTIFIED, AND THAT HAS ALWAYS BEEN UNDERSTOOD TO BE A DOT ON THE MAP, THAT'S WHAT WE'VE DONE. WE'VE ACTUALLY DONE

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MORE IN THIS CASE. IF THERE ARE CHANGES WITHIN THE SITING ELEMENT THEN IT'S APPROPRIATE THAT WE HAVE THAT SITING ELEMENT LOOKED AT. BUT, WE DON'T SEE THAT AS ENCOMPASSING A DELAY ON THE PERMIT'S PART. ESPECIALLY SINCE THERE'S EXISTING CAPACITY AND SUFFICIENT CAPACITY THERE.

THERE'S NO DOUBT THAT THE SITING ELEMENT NEEDS TO HAVE A LOT MORE INFORMATION THAT IS REQUIRED ON THE CONFORMANCE FINDING. THAT'S WHAT THE PLAN WAS FOR.

AND THAT'S BASICALLY THE SHORT VERSION OF WHAT WE NEED. I'M WILLING TO ANSWER ANY QUESTIONS. I THINK WE'VE MADE A SITE-SPECIFIC STANCE.

WE'VE GOT AN OPERATOR HERE READY TO ANSWER ANY QUESTIONS.

CHAIRMAN PENNINGTON: MR. EATON?

MEMBER EATON: YES. WITH REGARD TO -- AND, FIRST, I SHARE SENATOR ROBERTI'S COMMENTS. AND, ACTUALLY WE HAD LOOKED AT SOME OF IT. AND I THINK THAT NO MATTER WHAT WE DO TODAY, WE OUGHT TO AT LEAST SOMEHOW INSTRUCT THE STAFF TO COME BACK AS QUICKLY AS HUMANLY POSSIBLE WITH SOME OPTIONS FOR THE BOARD. BECAUSE IF IT IS COMING UP WITH REGULARITY -- TWO TODAY, HOW MANY WE KNOW NEXT MONTH AND THE FOLLOWING MONTH -- THAT IF WE COULD JUST DO THAT I THINK THAT WOULD BE HELPFUL.

THE INCREASED TONNAGE FOR THIS PARTICULAR FACILITY -- AND YOU'RE GOING TO SEE A LOT MORE OF THIS, BECAUSE YOU PROBABLY HAVE MANY MORE LEGAL MINDS, NOT THAT THEY HAVE ANYTHING

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OVER ANYONE ELSE, BUT THEY SORT OF TRY TO CROSS "T"S AND DOT "I"S -- IS THAT TONNAGE RELATED TO -- WHAT IS THAT INCREASED TONNAGE?

MR. SWEETSER: IT'S FOR THE OVERALL SITE. THIS WHOLE PERMIT IS TO BRING US IN COMPLIANCE AND GET RID OF ALL THE PROBLEMS WE'VE HAD IN THE PAST. IT WILL ESSENTIALLY BRING US IN COMPLIANCE WITH OPERATING REALITIES TODAY, AS WELL AS THE WASTE STREAMS AND OTHER THINGS WE TAKE.

SO, THE AVERAGE TONNAGE -- THE TONNAGE DESCRIBED IN HERE IS FOR THE SITE. IN REALITY WHAT WE'RE LOOKING AT IS AN INCREASE IN THE INERT AREA. WE HAVE AN INERT CELL THAT NEEDS TO BE FILLED, FOR VARIOUS REASONS, AND THAT'S WHAT MOST OF THIS CAPACITY WILL BE DESIGNATED FOR. AND IT'S A PEAK, USUALLY, IT'S NOT A REGULAR --

MEMBER EATON: AND THAT'S WHY I WAS KIND OF ASKING, BECAUSE IN THIS SITUATION WE HAVE A CROSS-PURPOSE WHERE WE HAVE A LOCAL JURISDICTION SAYING DUE TO A PARTICULAR EARTHQUAKE ZONE YOU'RE NO LONGER ABLE TO PUT IN CERTAIN KINDS OF WASTE.

MR. SWEETSER: EXACTLY.

MEMBER EATON: SO THAT I THINK IF YOU LOOK AT A WRAPPER FROM A, YOU KNOW, COMMERCIAL ESTABLISHMENT, THAT WOULD TEND -- I THINK IT'S FAIRLY OBVIOUS THAT IT'S LIGHTER THAN A PIECE OF WOOD -- HOPEFULLY, EXCEPT IF IT'S Balsa WOOD, PERHAPS -- BUT, GENERALLY.

AND SO, THEREFORE, PERHAPS IN YOUR SITUATION THE

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INCREASED TONNAGE IS DUE MORE TO THE FACT OF THE -- AS YOU SAID, THE INERT AS OPPOSED TO THE OTHER KINDS OF WASTE. AND I WOULD JUST HOPE THAT THE STAFF LOOKS AT THAT ISSUE IN A BALANCING, PERHAPS MAYBE AS A SERIES OF FACTORS, AS IT CONSIDERS WHAT CONSTITUTES EXPANSION.

BUT I THINK OVERALL IT WOULD, BUT THERE ARE THOSE KINDS OF EXCEPTIONS WHERE WEIGHT AND A COMPLICATION DUE TO MEANS BEYOND YOUR CONTROL....

MR. SWEETSER: THERE HAS BEEN VERY LITTLE SIGNIFICANT INCREASE IN MSW, MUNICIPAL SOLID WASTE, TONNAGE THROUGHOUT THE YEARS. IN FACT, THERE'S QUITE A LOT OF COMPETITION IN SANTA CLARA COUNTY FOR THAT WASTE STREAM. SO WE DON'T EXPECT A MAJOR INCREASE THERE, IT'S THE INERT AREAS THAT WHAT ARE A CONCERN.

AND, ABSOLUTELY, WE NEED TO COME BACK AND GET THIS GUIDANCE. WE HAVE OTHER PERMITS PENDING, WE'VE HAD SOME IN THE PAST WHERE THE ISSUE COMES UP, AND IT SEEMS TO BE SOMETHING THAT NEEDS TO BE RESOLVED AS A POLICY ISSUE. AND WE'D BE GLAD TO WORK WITH THE BOARD ON THAT ISSUE.

CHAIRMAN PENNINGTON: ANY OTHER QUESTIONS?

MR. SWEETSER: THANK YOU.

CHAIRMAN PENNINGTON: WE HAVE TWO OTHER PEOPLE WHO HAVE ASKED TO SPEAK, IF NECESSARY, SO I'M NOT SURE IT'S NECESSARY -- I'M SORRY, DENISE.

MS. DELMATIER: THANK YOU, MR. CHAIRMAN. DENISE DELMATIER ON BEHALF OF NORCAL WASTE SYSTEMS.

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I JUST WANTED TO ALSO THANK BOARD MEMBER ROBERTI FOR HIS COMMENTS, AND WE AGREE WITH THOSE COMMENTS. AND OBVIOUSLY, WE HAVE A NEW POLICY QUESTION THAT HAS BEEN RAISED, WE'RE THE FIRST ONE OUT OF THE CHUTE HERE, AND WE'D LIKE TO SEE THE BOARD CONVENE THE STAKEHOLDERS/INTERESTED PARTIES TO ADDRESS THE POLICY ISSUE.

HOWEVER, SEPARATE AND APART FROM THIS PERMIT APPLICATION. IT IS A MAJOR POLICY ISSUE THAT REQUIRES A GREAT DEAL OF ATTENTION, AND ALL OF THE PARTIES SHOULD BE BROUGHT TOGETHER, INCLUDING THE ENVIRONMENTAL COMMUNITY, INCLUDING LOCAL GOVERNMENT, THE WASTE RECYCLING INDUSTRY, SO THAT WE CAN PROVIDE A SOLUTION. AND IT MAY, IN FACT, REQUIRE LEGISLATIVE CHANGE.

SO, WE ENCOURAGE THAT TO TAKE PLACE AS QUICKLY AS QUICKLY AS POSSIBLE, BECAUSE WE DO HAVE PERMITS COMING FORWARD. BUT WE WOULD ENCOURAGE THAT THAT TAKE PLACE SEPARATE AND APART FROM THIS PERMIT APPLICATION, SINCE WE WERE JUST GIVEN NOTICE, OBVIOUSLY, AS TO THIS NEW POLICY ISSUE. AND WOULD ENCOURAGE THE BOARD, THEN, TO CONCUR IN THIS PERMIT TODAY.

CHAIRMAN PENNINGTON: VERY GOOD. QUESTIONS? MR. FRAZEE?

MEMBER FRAZEE: I WAS JUST GOING TO INDICATE THAT THIS MAY BE A -- AND I THINK YOU BEAT ME TO THE PUNCH ON THIS -- THAT THIS MAY BE BEYOND POLICY DECISION, IT MAY REQUIRE LEGISLATION TO CORRECT THE AMBIGUITY IN LEGISLATION.

AS FAR AS MR. ROBERTI'S COMMENT ON THE NOTICE PART

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OF THIS, I THINK IN EVERY ONE OF THESE PERMIT DEALINGS, THAT THAT IS TAKEN CARE OF IN OUR FINDING ON THE ADEQUACY OF THE ENVIRONMENTAL DOCUMENT, THAT'S WHERE THE NOTICE I BELIEVE TAKES PLACE. AND, IF WE FIND THAT THE EIR WAS PROPERLY HANDLED, THEN THAT CERTAINLY TAKES CARE OF ANY NOTICE CONSIDERATIONS THAT WE WOULD HAVE, AND IT WOULD NOT BE OUR RESPONSIBILITY BEYOND THAT TO BE ENGAGED IN ANY REQUIREMENTS FOR NOTICE.

MEMBER ROBERTI: I TEND TO AGREE WITH YOU ON THAT, EXCEPT I THINK FOR PURPOSES OF THE COUNTY AND I THINK THERE WILL BE A NOTICE PROBLEM. I COULD BE WRONG.

CHAIRMAN PENNINGTON: OKAY. ANY OTHER QUESTIONS? NO?

OKAY. I HAVE CHARLES BIRD.

MR. BIRD: YES, MR. FRAZEE ADDRESSED THE QUESTION THAT I WAS GOING TO TALK ABOUT.

CHAIRMAN PENNINGTON: VERY GOOD, THANK YOU.

JIM DEWEESE, YOU SAID IF NECESSARY. DO YOU THINK IT'S NECESSARY? I GUESS YOU DO.

MR. DEWEESE: I WILL KEEP IT BRIEF. I'M THE SOLID WASTE MANAGER FROM BUTTE COUNTY, SO OBVIOUSLY WE ARE CONCERNED HOW THE PACHECO PASS LANDFILL ISSUES GOES, BECAUSE WE FEEL OURS WILL PROBABLY GO THE SAME WAY SINCE WE HAVE THE SAME ISSUE.

SO, WE JUST WANTED TO OFFER THE OPPORTUNITY TO THE BOARD, IF YOU WOULD LIKE US TO PRESENT OUR VIEWPOINTS ON THE CONFORMANCE FINDING ISSUE, THAT IT MAY BE MORE APPROPRIATE TO DO SO AT THIS TIME RATHER THAN UNDER ITEM NO. 4. AND, YOU KNOW, I

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WILL LEAVE THAT TO THE DISCRETION OF THE BOARD.

CHAIRMAN PENNINGTON: I THINK IT'S FINE FOR YOU TO GO AHEAD NOW.

MR. DEWEESE: OKAY. THAT BEING THE CASE, I WOULD LIKE TO TURN IT OVER TO SOME PEOPLE WHO ARE MORE UP TO SPEED ON THE LEGAL ISSUES AND THE REGULATORY ISSUES THAN I AM. SO, WE HAVE SOME OTHER PEOPLE, NAMELY MR. CHUCK WHITE FROM WASTE MANAGEMENT, THAT WILL SPEAK ON BEHALF OF OUR OPERATOR.

CHAIRMAN PENNINGTON: YOU KNOW, IT WOULD SEEM TO ME THAT IF WE'RE GOING TO TAKE THIS UP AT ANOTHER BOARD MEETING, THIS WHOLE CONFORMANCY THING, MAYBE WE OUGHT TO HOLD THE DISCUSSION ON THAT UNTIL WE GET IT AGENDIZED, INSTEAD OF HOLDING UP THIS PERMIT WHILE WE TALK ABOUT THAT. IF THAT --

MR. DEWEESE: YEAH. OBVIOUSLY, WE'RE JUST CONCERNED ABOUT THE FATE OF OUR PERMIT.

CHAIRMAN PENNINGTON: SURE.

MR. DEWEESE: I THINK OUR PERMIT FOR THE NEAL ROAD LANDFILL IS THE OLDEST EXISTING PERMIT IN THE STATE RIGHT NOW, AND WE WOULD VERY MUCH LOVE TO SEE THAT REVISED TO REFLECT THE CURRENT OPERATIONS. THANK YOU.

CHAIRMAN PENNINGTON: AGAIN, I'VE GOT CHUCK WHITE, AND I'VE GOT MIKE MOHAJER.

MR. WHITE: THANK YOU, MR. CHAIRMAN. AS JIM INDICATED, FROM BUTTE COUNTY, THAT HIS CONCERN -- WASTE MANAGEMENT IS THE OPERATOR OF THE NEAL ROAD LANDFILL IN BUTTE COUNTY. WE ARE NOT

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SPEAKING ON BEHALF OR AGAINST THE PACHECO ROAD LANDFILL, BUT THERE IS A QUESTION WITH RESPECT TO THE INTERPRETATION OF 44009.

WE BELIEVE 44009 DOES REFER SPECIFICALLY TO 50001, 50001 USED THE TERM IDENTIFYING THE FACILITY PROVIDED THE FACILITY OR THE EXPANSION IS IDENTIFIED, WHICH WE BELIEVE IT IS IN BOTH THE PACHECO ROAD CASE, OR THE NEAL ROAD CASE. THAT GIVES YOU SUFFICIENT GROUNDS TO MAKE A FINDING OF CONFORMANCE AS REQUIRED UNDER 44009. WE WOULD ENCOURAGE YOU TO DO SO. THANK YOU.

CHAIRMAN PENNINGTON: THANK YOU. VERY GOOD.

MIKE MOHAJER, I SEE YOU WANT TO TALK POLICY.

MR. MOHAJER: THANK YOU, MR. CHAIR, MEMBERS OF THE BOARD.

THE ISSUE OF THIS CONFORMANCE FOR THE SITING ELEMENT, AS YOU KNOW, IS A CRITICAL ISSUE FOR LOS ANGELES COUNTY.

WE HAVE DISCUSSED IT APRIL OF '98, OVER HERE, AGAIN JUNE OF '98, AND JUNE 24TH, '98, WHEN THE SITING ELEMENT WAS APPROVED. AND WE ARE STILL WAITING FOR THE ISSUE TO GET RESOLVED.

JUST SIMPLY SAYING AMENDING THE SITING ELEMENT, IT IS NOT A SIMPLE ISSUE WHEN ANY AMENDMENT TO THE DOCUMENT WOULD REQUIRE THE APPROVAL OF THE MAJORITY OF THE CITIES.

AND THIS IS REALLY SOMETHING THAT NEEDS TO BE PURSUED PROBABLY ON A FASTER SCALE THAN IT HAS BEEN. AND ANY HELP THAT WE CAN PROVIDE WE'LL BE MORE THAN HAPPY TO. THANK YOU.

CHAIRMAN PENNINGTON: WE APPRECIATE THAT.

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SENATOR ROBERTI?

MEMBER ROBERTI: YES. NOT ON THIS GENTLEMAN, BUT THE ONE BEFORE, I JUST WANT TO MAKE A SMALL COMMENT. IT WAS MR. WHITE. HE MADE AN INTERESTING COMMENT, AND THAT WAS THAT HIS INTERPRETATION OF THE STATUTE WAS THAT WE -- HE FELT THAT WE COULD GRANT THE WAIVER BASED ON THAT INTERPRETATION OF THE STATUTE. OR, GRANT THE PERMIT, I GUESS, EXCUSE ME.

AND I JUST TO INTERJECT THAT COULD AND SHOULD ARE VERY, VERY DIFFERENT, AND THE TENOR OF HIS PRESENTATION WAS COULD MEANT SHOULD. AND I WANT HIM TO KNOW THAT'S WHAT THIS BOARD'S ALL ABOUT. THE FACT THAT A STATUTE DOES AUTHORIZE SOMETHING, OR COULD AUTHORIZE SOMETHING DOESN'T MEAN THAT WE MUST AUTHORIZE IT.

AND I KNOW THE BOARD FEELS THAT WAY, BUT I JUST HAD THE FEELING FROM THE SPEAKER, WITH ALL DEFERENCE, BECAUSE HE'S REPRESENTING A PARTY AND THAT'S HIS JOB, THAT I DON'T SEE IT QUITE THAT WAY.

CHAIRMAN PENNINGTON: VERY GOOD. OKAY.

MEMBER JONES: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES, MR. JONES.

MEMBER JONES: I HAVE A QUESTION FOR ELLIOT. I KNOW WE'RE GOING TO GET INTO THIS AS A POLICY DISCUSSION AT SOME POINT, BUT IF THAT SITING ELEMENT DESCRIPTION, WHICH HAS TO BE WHAT THE TONNAGE IS PERMITTED FOR TODAY, WHEN THAT SITING ELEMENT IS DONE, IF THEY PUT UNDER EXPANSION, POSSIBLE EXPANSION TO THE FOOTPRINT, OR POSSIBLE EXPANSION IN TONNAGES, WOULD THERE BE AN

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ISSUE? DOES IT THEN CONFORM WITH 50001?

MR. BLOCK: WELL, THE PARTICULAR HYPOTHETICAL YOU'VE GIVEN I THINK DOESN'T CHANGE THE EQUATION FOR -- FROM A STAFF POINT OF VIEW. I MEAN, THAT'S A QUESTION, IS THAT SUFFICIENT? IS IT ENOUGH TO SIMPLY SAY IN THE SITING ELEMENT THERE ARE PLANS TO EXPAND, BUT NOT PROVIDE ANY DETAILS ON THAT? OR, DOES THERE HAVE TO BE SOME NUMBER ASSOCIATED WITH THE EXPANSION?

AND, AGAIN, IT GOES BACK TO WHAT THIS BOARD WILL VIEW THE SITING ELEMENT REQUIREMENT TO BE. THAT'S AN ISSUE I THINK THAT I'LL MAKE SURE WE INCLUDE IN WHAT WE BRING BACK, EXACTLY HOW DETAILED IT HAS TO BE.

I CAN TELL YOU, AROUND THE STATE, IT VARIES WIDELY WHAT THE DOCUMENTS LOOK LIKE. SOME JURISDICTIONS LITERALLY JUST PUT IN THEIR EXISTING FACILITIES AND DID NOT DESCRIBE EXPANSIONS, AND FOR A VARIETY OF REASONS. SOME OF WHICH MAY HAVE BEEN THEY JUST FIGURED THEY'D TAKE CARE OF THAT IN THE FUTURE, AND FOR SOME OF THEM THEY JUST DIDN'T HAVE ANY PLANS. SOME OF THEM HAVE INCLUDED VERY DETAILED DESCRIPTIONS OF EXPANSIONS WITH NUMBERS, AND WITH POSSIBLE SCENARIOS AND THE LIKE.

AND AT THIS POINT IN TIME, THAT'S A DECISION UNDER THE STATUTES AND THE REGS THAT, YOU KNOW, THIS BOARD HAS LEFT TO THE JURISDICTIONS TO DECIDE WHO DETAILED THEY WANTED TO MAKE THAT. SO THAT'S ONE OF THE ISSUES I THINK THAT'S ON THE TABLE, AS TO WHAT THAT DESCRIPTION OF EXPANSIONS NEEDS TO LOOK LIKE.

MEMBER JONES: OKAY. BECAUSE I STRUGGLED WITH THIS

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THING QUITE A BIT, BECAUSE I ALWAYS WORRY ABOUT THE GUY THAT'S GOT A 50-TON-A-DAY SITE AND TURNS IT INTO A 10,000-TON-A-DAY SITE.

BUT THE MORE I THOUGHT ABOUT IT, THE MORE I THOUGHT THAT THERE IS A ROLE FOR LOCAL GOVERNMENT. AND LOCAL GOVERNMENT'S ROLE IS TO ENSURE CEQA AND THE ENVIRONMENTAL PROTECTION WITHIN ITS JURISDICTIONS.

AND THE FACT THAT TO GET ANY PERMIT THROUGH, TO GET HERE, HAS GOT TO GO THROUGH A LOCAL PROCESS THAT I -- YOU KNOW, THAT DEALS WITH THOSE ISSUES, PUTS THEM OUT FOR COMMENT, AND THEN MAKES A DETERMINATION -- AND I KNOW THAT MOST OF THOSE DETERMINATIONS ARE MADE AT EITHER THE BOARD OF SUPERVISORS OR THE CITY COUNCILS. AND I'VE SAT IN AN AWFUL LOT OF THEM, AND IF THERE WERE PEOPLE THAT WERE -- HAD AN ISSUE, THEY WERE THERE.

AND I'M WONDERING -- WHERE I'M HAVING A PROBLEM IS THAT -- IS, YOU KNOW, THE ROLE OF THIS BOARD IS TO MAKE SURE THAT THOSE FACILITIES HAVE BEEN IDENTIFIED, THAT PEOPLE UNDERSTAND WHAT IS GOING ON. IT WAS ALMOST AN ACCOUNTABILITY ISSUE, IT SEEMED LIKE AT THE TIME, TO MAKE SURE THAT PEOPLE PLANNED AND UNDERSTOOD WHAT WAS GOING TO HAPPEN, AND THEY WERE LOCATED. AND IF THEY KNEW A TRANSFER STATION'S GOING TO GO INTO A FACILITY THE, BY ALL MEANS, THAT'S GOT TO GO UP THROUGH THE PROCESS, IT'S GOT TO BE AN AMENDED SITING ELEMENT, THOSE ISSUES.

BUT WE DO PERMIT REVISIONS EVERY DAY. SO, IF WE WERE TO EXPAND A PERMIT FROM 250 TONS A DAY TO 400 TONS A DAY, IS

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THAT AN EXPANSION? AND, DOES THAT EXPANSION TRIGGER THEM NOT GETTING A PERMIT REVISION, BUT HAVING TO GO BACK AND DO A SITING ELEMENT REVISION? AND, THAT BOTHERS ME FROM A POINT OF BUREAUCRACY. YOU KNOW, I MEAN, HOW MANY PIECES OF PAPER DO WE HAVE TO HAVE WITH IT WRITTEN DOWN TO MAKE SURE THAT THE PUBLIC'S HEALTH AND SAFETY ARE PROTECTED?

AND, SO I'M INTERESTED IN THE DEBATE AND IN THE POLICY, BUT I JUST -- I ABSOLUTELY THINK THAT CEQA'S THE KEY TO THIS THING. AND THAT IT'S IDENTIFIED. I MEAN, IF IT WAS A NEW ONE, BY ALL MEANS, IT HAS TO GO THROUGH THE PROCESS. BUT A REVISION OF A THOUSAND TONS, OR A REVISION OF A HUNDRED TONS COULD TRIGGER THE EXACT SAME CONSEQUENCES, WHERE YOU'D HAVE TO GO BACK AND DO SITING ELEMENTS AND DO ALL THOSE THINGS, AND I DON'T -- I'M TRYING TO ASSESS THE BENEFIT, SO.

CHAIRMAN PENNINGTON: YVONNE HUNTER.

MS. HUNTER: GOOD MORNING, YVONNE HUNTER WITH THE LEAGUE OF CALIFORNIA CITIES. I WAS JUST HERE TO MONITOR AND LISTEN TO THE POLICY DISCUSSION, AND I'M NOT HERE IN ANY WAY TO COMMENT ON THE PERMIT.

BUT, MR. JONES RAISED SOME ISSUES THAT I'VE THOUGHT ABOUT. AND AS THE BOARD PROVIDES DIRECTION TO STAFF ON THE SCOPE OF THE POLICY ISSUES TO CONSIDER, I WOULD ENCOURAGE THEM TO COVER EXACTLY WHAT MR. JONES HAS RAISED, AND SOMETHING THAT I'VE BEEN THINKING ABOUT.

AND THAT IS, I HAVE NO IDEA, FRANKLY, WHEN IT'S

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APPROPRIATE TO REVISE A SITING ELEMENT AND WHEN IT'S NOT. AND I THINK WE NEED TO LOOK AT WHY ONE WOULD REVISE A SITING ELEMENT UNDER DIFFERENT CIRCUMSTANCES.

BUT AT THE SAME TIME, TYING INTO SENATOR ROBERTI'S COMMENT ABOUT PUBLIC COMMENT AND PUBLIC NOTICE, WE NEED TO LOOK AT WHEN IN THE PROCESS CEQA KICKS IN, WHAT KIND OF PUBLIC NOTICE IS INVOLVED THERE, AND WHEN IN THE PROCESS THE APPROPRIATE LAND USE PERMITS, CONDITIONAL USE PERMITS KICK IN, AND WHAT THE NOTICE IS THERE. AS WELL AS THE LEAS PROCESS.

I MEAN, ALL OF THESE THINGS ARE GOING ON IN PARALLEL, AND SOME OF THEM MAY BE ADEQUATE FOR THE NOTICE PROVISION THAT IS ENVISIONED IN A SITING ELEMENT, SOME OF THEM MAY NOT. BUT I THINK IF WE'RE GOING TO REVISIT THE POLICY WE NEED TO LOOK AT ALL OF THOSE, AND THE LEAGUE WILL BE HAPPY TO PARTICIPATE IN THOSE DISCUSSIONS.

CHAIRMAN PENNINGTON: ALL RIGHT. THANK YOU.

SENATOR ROBERTI?

MEMBER ROBERTI: YEAH, I'M GOING TO BORE YOU WITH MY EXPERIENCE OF TWO DAYS AGO, IT HAD NOTHING TO DO WITH WASTE MANAGEMENT. BUT I GOT A NOTICE FROM THE CITY OF LOS ANGELES, WHERE I LIVE, THAT MY NEIGHBOR WAS GOING TO BUILD A SIX-FOOT WALL UNDER MY NOSE. WELL, NOT WANTING TO FIGHT THAT BATTLE OUT HERE - - FORTUNATELY I'M IN A POSITION WHERE I CAN TAKE AN ADMIN DAY, GO HOME, TRAVEL TO THE PLANNING COMMISSION WITH MY WIFE, AND LOOK LIKE A GRIEVED RESIDENT, WITH WHOEVER ELSE IS GOING TO COME WITH

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US, THERE....

WHEN YOU HAVE SOMETHING LIKE THIS BEING SITED NEXT DOOR TO YOU, WHETHER IT'S YOUR BUSINESS OR YOUR HOME, NOTHING DRIVES YOU CRAZIER. AND IT DROVE ME CRAZY. WELL, WHY SHOULD YOU BE CRAZY, YOU'RE A STATE SENATOR -- WELL, IT DROVE ME CRAZY. YOU KNOW? I MEAN, I DON'T CARE WHO I WAS.

SO, I REALLY THINK WE SHOULD BE VERY, VERY CAUTIOUS WHEN WE SHORTCUT NOTICE ON THINGS THAT HAVE AFFECT ON PEOPLE'S PERSONAL PROPERTY. BECAUSE, THEY -- THE NEIGHBOR, THE EDIFICE IN QUESTION -- AND I ASSURE YOU, IF I WAS DRIVEN CRAZY BY A WALL -- AND WHICH THEY WERE TRYING TO MAKE IT BEAUTIFUL -- CAN YOU IMAGINE, I WOULD HAVE GONE THROUGH THE CEILING IF I THOUGHT IT WAS GOING TO BE A DUMP SITE.

AND, SO I THINK WE HAVE TO BE VERY CAUTIOUS OF WHEN WE WAIVE NOTICE. AND I THINK WOMAN WHO JUST SPOKE MADE THE POINT, THESE DEADLINES ARE ALL TOGETHER DIFFERENT. AND WE -- I DON'T THINK ANY OF US KNOW HOW THE DEADLINES INTERRELATE AND COORDINATE WITH EACH OTHER.

SO, JUST REEMPHASIZING, BECAUSE SHE -- SHE STIRRED ME TO ANOTHER SPEECH, THAT NOTICE IS TERRIBLY IMPORTANT. AND TO ME IT'S ALMOST AS IMPORTANT AS THE ENVIRONMENTAL CONSIDERATIONS THAT WE'RE DEALING WITH. PEOPLE WANT TO FEEL THAT THEY HAD A CHANCE TO BE HEARD AT EVERY STEP ALONG THE WAY.

CHAIRMAN PENNINGTON: VERY GOOD. HOW ABOUT --

MS. TOBIAS: MR. CHAIR, COULD I -- I'D LIKE TO ADD --

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I'D LIKE TO ADD, SEPARATE FROM WHAT MR. BLOCK WENT OVER, IN TERMS OF THE CONFORMANCE FINDINGS AND THE LEGALITIES OF THAT?

BUT, I DO FEEL IT'S IMPORTANT TO POINT OUT THAT IT HAS BEEN BASICALLY -- WHEN POLICY ISSUES LIKE THIS ARISE BEFORE THE BOARD, EVEN AT THE LAST MINUTE, AND THERE HAVE BEEN SOME A LOT OF TIMES IN OUR -- I THINK OUR EFFORT TO GET AGENDA ITEMS BEFORE THE BOARD IN AN EXPEDITIOUS MANNER, A LOT OF TIMES THESE POLICY ITEMS DO BECOME MORE APPARENT AT THE TIME THAT WE'RE BRINGING THE ITEM FORWARD.

AND I THINK HERE, WHERE IT INVOLVES TWO AGENDA ITEMS, NOT JUST ONE, I THINK IT MAKES IT VERY CLEAR THAT THERE IS -- AS I THINK YOU'VE ALL ACKNOWLEDGED -- A POLICY ISSUE HERE. AND I THINK -- I JUST FEEL LIKE I'D BE -- IT WOULD BE REMISS TO NOT POINT OUT THAT IT HAS BEEN A PRACTICE OF THE BOARD TO SET THESE SPECIFIC AGENDA ITEMS ASIDE, TO NOT MAKE SPECIFIC AGENDA ITEMS KIND OF CARRY THE WEIGHT OF A POLICY DECISION, BUT TO SET THEM ASIDE AND TAKE UP THE POLICY ITEM.

I AM UNCOMFORTABLE WITH THE IDEA THAT THERE WILL BE, POTENTIALLY, FACILITIES OUT THERE THAT WILL BE GOING THROUGH A DIFFERENT PROCESS. THESE THROUGH ONE (SIC) AND POSSIBLY, DEPENDING ON WHAT THE BOARD COMES UP WITH, ON HOW THEY WANT TO DEAL WITH THIS POLICY IN THE FUTURE. IT MAY NOT BE ANY DIFFERENT, AND THEN IN THAT CASE ALL OF THE FACILITIES WOULD HAVE BEEN TREATED THE SAME.

BUT, I'M UNCOMFORTABLE, I HAVE TO SAY, JUST FROM

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MY OWN VIEWPOINT HERE, IN TERMS OF THE BOARD'S PRACTICE ON THIS, AND ALSO HAVING FACILITIES THAT HAVE BEEN TREATED DIFFERENTLY. SO, I FELT THAT WAS IMPORTANT TO HEAR FROM THE LEGAL OFFICE.

CHAIRMAN PENNINGTON: THANK YOU.

MR. FRAZEE?

MEMBER FRAZEE: YES. I CERTAINLY SHARE SOME OF THOSE FEELINGS. BUT, JUST AS A COUNTER TO THAT, I THINK THAT, YOU KNOW, THE REAL BOTTOM-LINE PURPOSE OF CIWMP IS TO ENSURE CAPACITY. AND I THINK THIS ONE CAN BE TREATED DIFFERENTLY THAN PERHAPS OTHERS, IN THAT THE CAPACITY IS ASSURED.

I UNDERSTAND THAT, WITH OR WITHOUT THIS FACILITY, SANTA CLARA COUNTY STILL HAS 30 YEARS OF CAPACITY. SO, I THINK THAT THIS IS ONE THAT CAN BE TAKEN OUTSIDE OF THE BOX AND LET THE POLICY DECISION GO FOR ANOTHER DAY BEFORE THAT -- HINGING ON THAT SINGLE POINT OF THE PURPOSE OF THE COUNTYWIDE INTEGRATED PLAN IS TO ENSURE CAPACITY, AND THAT IS NOT IN QUESTION HERE.

SO, I DON'T THINK THIS ONE REALLY DISTURBS -- AND, THIS LOOKS LIKE IT'S GOING TO BE A LENGTHY DISCUSSION AND, AS I SUGGESTED EARLIER, MAY EVEN REQUIRE LEGISLATION, WHICH WOULD TAKE THE BETTER PART OF A YEAR, AND I THINK IT'S FAR MORE IMPORTANT TO GET SOME OF THESE PERMITS UPGRADED IN THE INTERIM.

MS. TOBIAS: WELL, I ACKNOWLEDGE THAT IT IS A LENGTHY PROCESS. AND, I GUESS, GIVEN WHAT YOU'VE JUST SAID I'M GLAD I DID BRING IT UP --

MEMBER FRAZEE: YEAH.

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MS. TOBIAS: -- BECAUSE I THINK YOU'RE MAKING A DISTINCTION THERE THAT WILL PROVIDE SOME GUIDANCE FOR ANY OTHER FACILITIES THAT ARE COMING IN, IN BETWEEN NOW AND WHEN THE BOARD GETS A POLICY. SO, I THINK THAT'S THE IMPORTANT THING, IS TO MAKE IT CLEAR, YOU KNOW, WHY THE BOARD FEELS THAT THEY CAN GO AHEAD WITH THESE FACILITIES.

AND, BECAUSE I THINK THAT THE CASE WILL BE, IS THAT THE REST WILL EXPECT TO BE TREATED THE SAME WAY, AND I THINK YOU'RE DELINEATING, GIVEN THE INTENT OF THE CIWMP, AT LEAST WHAT YOU SEE AS A REASON TO DO THAT, SO.

MEMBER FRAZEE: AND HAVING SAID THAT, I JUST HOPE THAT NEAL ROAD FALLS IN THAT SAME CATEGORY.

MS. TOBIAS: ACTUALLY, I JUST ASKED MR. BLOCK THAT AND HE SAYS IT DOES, SO THAT WAS MY IMMEDIATE CONCERN.

MEMBER FRAZEE: SO, MR. CHAIRMAN, I'M GOING TO MOVE ADOPTION OF RESOLUTION 1999-27, AND THIS IS THE CONSIDERATION OF A REVISED PERMIT FOR THE PACHECO PASS SANITARY LANDFILL.

CHAIRMAN PENNINGTON: VERY GOOD.

MEMBER ROBERTI: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES.

MEMBER ROBERTI: IF I COULD OFFER AN AMENDMENT, MAYBE THE AUTHOR OF THE MOTION WILL TAKE IT. AND THAT IS THAT THE LANGUAGE 'CONFORMANCE WITH THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN' BE STRICKEN BECAUSE -- AND THE WHEREAS CLAUSE, THE LAST WHEREAS CLAUSE - BECAUSE I AM VOTING FOR THIS, OR INTEND TO VOTE

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FOR THE RESOLUTION, BUT NOT BECAUSE IT'S IN CONFORMANCE WITH THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN, BECAUSE I THINK THAT'S THE BIG QUESTION.

MEMBER FRAZEE: WELL, AS THE MAKER OF THE MOTION, I CANNOT ACCEPT THAT. I THINK THAT'S THE WHOLE PURPOSE. THAT'S A FINDING THAT MUST BE MADE BEFORE WE CAN MOVE AHEAD, AND THAT JUST TAKES THIS WHOLE DISCUSSION OUT OF THE REALM OF CONSIDERATION.

MS. TOBIAS: MR. ROBERTI, WHICH WHEREAS WAS THAT, PLEASE -- SENATOR ROBERTI?

MEMBER ROBERTI: IT IS -- LET ME SEE.

I THINK IT'S THE LAST ONE.

MS. TOBIAS: THE LAST ONE? THANK YOU.

CHAIRMAN PENNINGTON: MR. FRAZEE HAS MOVED. CAN WE HAVE A SECOND FOR MR. FRAZEE'S -- IF NOT...? MR. JONES?

MEMBER JONES: I'LL SECOND IT.

I UNDERSTAND WHAT THE SENATOR'S SAYING ON THE CONFORMANCE. I THINK THAT --

MEMBER ROBERTI: I DON'T SEE WHY WE NEED TO SAY THAT.

MEMBER JONES: IT HAS TO CONFORM TO YOUR PERMIT.

MEMBER ROBERTI: STRIKING IT DOESN'T MEAN IT'S CONFORMING OR NOT CONFORMING.

MS. TOBIAS: WOULD IT HELP TO PUT MR. FRAZEE'S POINT IN THERE, WHICH WAS THAT IT'S CONFORMANCE WITH THE INTENT? OR, CONFORMANCE WITH THE PLAN AND THE INTENT OF THE PLAN, AS TO CAPACITY, SO THAT IT CLARIFIES WHAT THE BOARD'S MAKING A

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DISTINCTION ON?

MEMBER ROBERTI: OKAY. I'LL BE EASY-GOING HERE. IF YOU PUT THE WORD "INTENT" OF THE -- IF YOU QUALIFY THE WHOLE THING WITH THE WORD "INTENT" I PROBABLY COULD ACCEPT IT. CONFORMANCE WITH THE INTENT OF THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN.

MS. TOBIAS: OR, I WAS -- I DON'T KNOW IF THIS IS NOT ENOUGH, BUT I WAS SAYING, IN CONFORMANCE WITH THE PLAN AND THE INTENT OF THE PLAN, SO THAT IT KIND OF COVERS BOTH BASES. SO THAT WOULD BE ONE OTHER OPTION.

MS. DELMATIER: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES?

MS. DELMATIER: I CERTAINLY APPRECIATE MR. ROBERTI'S CONCERNS REGARDING THE PRECEDENT, AND THE POLICY QUESTION THAT HAS BEEN RAISED TODAY.

AS MR. FRAZEE POINTED OUT, IT'S OUR UNDERSTANDING, IN READING THE STATUTES, THAT IN FACT THE STATUTES DO REQUIRE THAT THE BOARD MAKE A FINDING OF CONFORMANCE. AND IF WE FAIL TO MAKE THAT FINDING, IN ADOPTION OF THE PERMIT, THEN IT SUBJECTS THIS PERMIT TO LEGAL CHALLENGE. AND, SO WE DO HAVE A CONCERN ABOUT ADOPTING AND CONCURRING THE PERMIT WITHOUT THAT STATUTORILY-REQUIRED FINDING.

MEMBER ROBERTI: COULD YOU GIVE ME THE SECTION WHERE IT SAYS THAT?

MR. WHITE: I BELIEVE THAT'S SECTION 44009 OF THE PUBLIC

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RESOURCES CODE.

MEMBER ROBERTI: YEAH. RIGHT OFF THE TOP OF MY HEAD, YEAH, I REMEMBER THAT --

MR. WHITE: YEAH, I HAVE IT HERE, SECTION 44009 STATES, IN PART THAT:

"IF THE BOARD DETERMINES THAT THE PERMIT IS NOT CONSISTENT WITH SECTIONS 50000 OR 50001, THEN THE BOARD SHALL OBJECT TO THE PROVISIONS OF THE PERMIT AND SHALL SUBMIT THOSE OBJECTIONS TO THE LOCAL ENFORCEMENT AGENCY FOR ITS CONSIDERATION."

MEMBER ROBERTI: BUT THAT DOESN'T STRIKE ME THAT WE HAVE TO, THEN, PUT THIS LANGUAGE IN. UNLESS WE'RE TRYING TO DOT EVERY "I" AND CROSS EVERY "T" FOR PETITIONER. EVEN AT THE RISK OF ESTABLISHING A PRECEDENT THAT WILL GO -- BE FAR MORE REACHING THAN WHAT I WANT TO DO.

I'M WILLING TO ADJUST FOR YOU, BUT I DON'T SEE WHY WE SHOULD HAVE TO CROSS EVERY, YOU KNOW, "T" AND POSSIBLY ESTABLISH A PRECEDENT.

MS. DELMATIER: MAY I SUGGEST AN ALTERNATIVE? AND ASK FOR LEGAL COUNSEL, FOR SOME ASSISTANCE IN THIS REGARD?

IS IT POSSIBLE TO ADOPT THE PERMIT, AS WE HAVE ALWAYS DONE, AND HAS BEEN A CHECK-OFF ITEM ON ALL PERMITS? AND AGAIN, THIS WOULD -- IF WE WERE NOT TO PROVIDE FOR THIS FINDING, THAT IN FACT WOULD ESTABLISH A PRECEDENT AND A DEPARTURE FROM PREVIOUS PRACTICE. AND I RECOGNIZE THAT -- WHAT THE CONCERN IS.

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BUT, AS AN ALTERNATIVE -- AND ASKING FOR ASSISTANCE FROM LEGAL COUNSEL IN THIS REGARD -- COULD WE PROVIDE A LETTER OF EXPLANATION ATTACHED TO THE PERMIT, THAT THE BOARD IS GOING TO LOOK AT THIS LARGER POLICY QUESTION, AND THAT THAT LARGER POLICY QUESTION, IN ADOPTING THIS PERMIT TODAY, WILL NOT PREJUDICE THAT DECISION ON THE LARGER POLICY QUESTION?

MS. TOBIAS: WELL, I DON'T HAVE A PROBLEM WITH THAT, BECAUSE I THINK -- MY UNDERSTANDING IS THAT IT REALLY IS THE INTENT OF WHERE THE BOARD'S GOING TODAY ANYWAY. SO I THINK THAT COULD EITHER BE IN THE MOTION, IT COULD EITHER BE IN A SECOND MOTION AFTER THE APPROVAL OF IT.

I DO THINK THAT THE BOARD NEEDS TO TELL STAFF THAT YOU DO WANT STAFF TO GO AHEAD AND WORK ON THIS POLICY ISSUE. ALTHOUGH, I THINK THE TRANSCRIPT WILL ALSO REFLECT THIS DISCUSSION.

MS. DELMATIER: I UNDERSTAND THE TRANSCRIPT WILL REFLECT THE DISCUSSION. BUT IN TRYING TO PROVIDE CLARIFICATION FOR MR. ROBERTI'S CONCERNS, I THINK THAT THAT WOULD PROVIDE ADDITIONAL CLARIFICATION, AS FAR AS THIS DECISION TODAY WOULD NOT PREJUDICE THE POLICY QUESTION, EITHER FOR THIS PERMIT OR ANY OTHER PERMIT.

MEMBER ROBERTI: RIGHT. AND THAT MAY BE SOMETHING WE CAN DO IN A SECOND MOTION. I THINK WE COULD DO IT IN THIS MOTION, TOO, IF WE WANT TO. BUT I WOULD SAY THAT'S PROBABLY SOMETHING WE COULD DO IN A SECOND MOTION. THAT STAFF BE DIRECTED

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TO MEET WITH THE VARIOUS STAKEHOLDERS, AND COME BACK WITH A RECOMMENDATION AT A TIME WHICH STAFF FEELS IS EXPEDITIOUS, AND YET SUFFICIENT. AND SO, YEAH, I WOULD -- I LIKE THE SUGGESTION, AND I WOULD SAY THAT THAT COULD BE A FOLLOW-UP MOTION.

ABSENT SOME STATEMENT THAT THIS CONFORMANCE WITH THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN IS -- HAS TO BE STATED, I DON'T SEE WHY IT'S NECESSARY. I HAVEN'T HEARD WHY IT HAS TO BE STATED, EXCEPT FOR THE COMFORT ON THE PART OF THE PETITIONER.

MS. TOBIAS: WELL, IT IS ONE OF THE FINDINGS THAT WE TYPICALLY MAKE, AND I THINK IF YOU DON'T HAVE IT IN THERE THAT PROBABLY INTRODUCES SOME ELEMENT OF QUESTION.

I HAVE ONE MORE SUGGESTION, AND THAT IS TO SAY CONFORMANCE -- THAT THE BOARD FINDS THAT ALL STATE AND LOCAL REQUIREMENTS HAVE BEEN MADE, INCLUDING CONSISTENCY WITH BOARD STANDARDS, CONFORMANCE WITH THE INTENT TO PROVIDE 15 YEARS OF CAPACITY IN THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN.

MEMBER ROBERTI: I'LL GO ALONG WITH THAT.

MEMBER FRAZEE: YEAH.

I'LL AMEND MY MOTION AND THE RESOLUTION TO REFLECT THAT

--

CHAIRMAN PENNINGTON: OKAY.

MS. DELMATIER: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES?

MS. DELMATIER: IF I MIGHT? AS REPRESENTING THE

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APPLICANT IN THIS REGARD, OBVIOUSLY WE WOULD -- AND I THOUGHT WE HAD AGREEMENT HERE IN TRYING TO ADDRESS MR. ROBERTI'S CONCERNS. IT CERTAINLY WOULD BE OUR PREFERENCE TO PROVIDE FOR THE SECOND MOTION, IN PROVIDING THE CLARIFICATION ON THE POLICY QUESTION, AS OPPOSED TO HAVING THAT EXPRESS FLEXIBILITY LANGUAGE THAT COULD BE SUBJECT TO INTERPRETATION IN THE PERMIT ADOPTION RESOLUTION ITSELF.

SO, IF WE COULD HAVE THE SECOND MOTION, FOR PURPOSES OF CLARIFICATION, THAT THE POLICY QUESTION IS NOT PREJUDICED BY ADOPTION OF THIS PERMIT, THAT WOULD BE OF GREAT ASSISTANCE. AND, I THOUGHT THAT THAT WAS WHAT WE WERE DISCUSSING.

MEMBER ROBERTI: WELL, I DON'T WANT TO PREJUDICE -- THE SECOND -- I DON'T WANT TO PREJUDICE THE POLICY QUESTION EITHER, TILTING TOWARD THE WAY I'M LEANING, OR TILTING THE WAY THAT PROBABLY HAS BEEN SORT OF BOARD POLICY. SO, YEAH, THAT'S MY POSITION. BUT I DON'T WANT TO TILT IT ONE WAY OR THE OTHER.

MS. DELMATIER: EXACTLY. AND NEITHER DO WE, BECAUSE THAT IS A FUNDAMENTAL POLICY QUESTION THAT'S GOING TO BE DEBATED AT LENGTH, AND IT WILL BE RATHER CONTROVERSIAL. AND WE ALL KNOW THAT, IN FAIRNESS WE ALL KNOW THAT. SO, WE DON'T WANT TO TILT ONE WAY OR THE OTHER. WE WANT THIS ADOPTION -- THIS PERMIT TODAY TO BE ABSOLUTELY NEUTRAL IN THAT REGARD.

SO THAT'S WHY, IF WE PUT IT IN THE PERMIT ADOPTION RESOLUTION, I DO IN FACT BELIEVE THAT WE WILL BE TILTING. IF WE

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PUT IT IN A SECOND MOTION THAT CLARIFIES THE BOARD'S POLICY --

MEMBER ROBERTI: I UNDERSTAND WHAT YOU'RE SAYING. BUT THAT MEANS YOU STILL WANT CONFORMANCE WITH THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN IN THERE --

MS. DELMATIER: THAT IS SUBJECT TO INTERPRETATION DOWN THE ROAD, ONCE THE BOARD ADOPTS THAT POLICY.

MEMBER ROBERTI: I KIND OF LEAN TOWARDS THE -- WELL, THE LANGUAGE WHICH MS. TOBIAS IN A SPIRIT OF COMPROMISE OFFERED, AND I DON'T THINK THAT AFFECTS YOU AT ALL, ONE WAY OR THE OTHER.

MS. DELMATIER: ONE OF THE POLICY QUESTIONS THAT WE WILL BE ADDRESSING IN THAT LARGER DISCUSSION IS WHO, IN FACT, IS RESPONSIBLE FOR DEMONSTRATING THE MINIMUM 15-YEAR DISPOSAL CAPACITY. AND AS WE HAVE DEBATED IN THE LEGISLATURE OVER THIS VERY BILL, AB 3001, CORTEZE (PHON), AND DEBATED IN THE DISCUSSIONS, IN FACT, IN AB 939, THAT RESPONSIBILITY SOLELY LIES WITH CITIES AND COUNTIES, THE LOCAL AGENCIES. AND BY PUTTING THIS INTENT LANGUAGE, DEMONSTRATING A 15-YEAR DISPOSAL CAPACITY, IN A PRIVATE PERMIT APPLICATION, AGAIN, WE WILL BE IN FACT TILTING THAT DISCUSSION.

MEMBER ROBERTI: BUT ISN'T THAT WHAT WE'RE DOING ANYWAY, WITH THIS LANGUAGE WHICH -- OR, YOU'RE APPARENTLY RECOMMENDING? I MEAN, IT'S SUBSUMED IN THIS LANGUAGE ANYWAY.

MS. DELMATIER: BUT IT WOULD NOT BE AN OFFICIAL ADOPTION IN THE PERMIT APPLICATION. IT WOULD BE AN EXPLANATORY LANGUAGE, SEPARATE AND APART FROM THE PERMIT RESOLUTION.

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MEMBER ROBERTI: WELL, I DON'T UNDERSTAND WHY YOU WOULD BE CONCERNED WITH THE 15-YEAR LANGUAGE. IN FACT, THAT'S --

MS. DELMATIER: BECAUSE WE'RE LINKING THE PERMIT APPLICATION TO THE CITY AND COUNTY RESPONSIBILITY --

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MEMBER ROBERTI: -- WE'RE LINKING IT WITH THE CONFORMANCE -- WITH YOUR LANGUAGE. SO, I MEAN, I DON'T UNDERSTAND THE PROBLEM.

MS. TOBIAS: I THINK THAT'S A GOOD IDEA.

MEMBER ROBERTI: I MEAN, YOU JUST WANT BROADER LANGUAGE, AND I UNDERSTAND THAT. BUT ON MY VOTE, I'M NOT PREPARED TO GIVE IT. AND I WANT TO BE FAIR, SIMPLY ON A NOTICE TO YOUR ENTITY, THAT YOU SHOULDN'T BE THE FIRST ONE UP AND BE HIT WITH A NEW POLICY CONSIDERATION. AND, THERE ARE NO PUBLIC HAZARDS INVOLVED, AND I TAKE THAT TO BE THE CASE.

BUT, I DON'T WANT TO GO ANY FURTHER THAN THAT, BECAUSE THIS ISSUE IS MUCH MORE EXPANSIVE THAN NORCAL OR PACHECO PASS.

MS. DELMATIER: AND, MR. ROBERTI, YOU'RE RAISING VERY GOOD ISSUES HERE. AND BEING AN EXPERIENCED LEGISLATIVE ADVOCATE ON THE LEGISLATIVE FRONT, I CONCUR WITH YOUR ASSESSMENT.

CHAIRMAN PENNINGTON: WE HAVE A MOTION ON THE FLOOR TO ADOPT RESOLUTION 99-27, AS AMENDED BY MS. TOBIAS' LANGUAGE, SECONDED BY MR. JONES.

IF THERE'S NO FURTHER DISCUSSION, COULD WE CALL

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THE ROLL, PLEASE?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: ROBERTI?

MEMBER ROBERTI: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

WE'RE GOING TO TAKE ABOUT FIVE MINUTES HERE.

(OFF THE RECORD; BRIEF RECESS.)

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